

Barbara Kwiatkowska

Decisions of the
World Court Relevant
to the UN Convention
on the Law of the Sea

A Reference Guide

Kluwer Law International

**DECISIONS OF THE WORLD COURT RELEVANT TO THE
UN CONVENTION ON THE LAW OF THE SEA**



The International Court of Justice in public sitting during the delivery of the *Difference Relating to Immunity from Legal Process* Advisory Opinion on 29 April 1999.

On the right of President Stephen M. Schwebel: Judges Shigeru Oda, Gilbert Guillaume (subsequently the President in 2000-2003), Géza Herczegh, Carl-August Fleischhauer, Vladlen S. Vereshchetin, Gonzalo Parra-Aranguren and José F. Rezek.

On the left of President Schwebel: Vice-President Christopher G. Weeramantry, Judges Mohammed Bedjaoui, Raymond Ranjeva, Shi Jiuyong (subsequently the Vice-President in 2000-2003), Abdul G. Koroma, Dame Rosalyn Higgins, Pieter H. Kooijmans and Registrar Eduardo Valencia-Ospina (succeeded in 2000 by Philippe Couvreur).

At the table below the Bench: Deputy Registrar Jean-Jacques Arnaldez.

Photograph courtesy van der Plas and van Eeden.

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by

BARBARA KWIATKOWSKA



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**To Stephen M. Schwebel,
Judge (1981–2000) and the President
(1997–2000) of the International Court of
Justice,
President of the Administrative Tribunal
of the International Monetary Fund (1994–),
President of the *Southern Bluefin Tuna*
Annex VII Arbitral Tribunal (1999–2000),
Member of the *Eritrea/Yemen* Arbitral Tribunal
(1996–1999) and the UN *Eritrea/Ethiopia*
Boundary Commission (2001–2002)**

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PREFACE

“The content of customary international law, or the governing interpretation of a treaty, may be influenced or even determined by a judgment of the Court. The Court’s decisions thus enjoy, as Lauterpacht has put it, an ‘intrinsic’ authority within the international community. [...] The ‘intrinsic’ authority of the Court’s decisions and the coherence of its case-law are fundamental factors which enable it to contribute to the development of international law.”

Stephen M. Schwebel, *The Contribution of the International Court of Justice to the Development of International Law*, in Wybo P. Heere ed., *International Law and The Hague’s 750th Anniversary* 405, 407 (T.M.C. Asser Press 1999), quoting Sir Hersch Lauterpacht, *The Development of International Law by the International Court* 22 (Revised Edition, Cambridge 1982).

This *Reference Guide* is the product of many years of work carried out in reliance on two inter-related premises. One of them consists of significant contributions which have been made by the International Court of Justice (ICJ) to the development of the law of the sea – along with the law of the United Nations, the law of human rights, the law of treaties and the environmental law – as a part of general international law and as a part of the global system of peace and security.¹ The law of the sea related cases

¹ See especially the emphasis on such “unquestioned” contributions by the then ICJ President Stephen M. Schwebel, *Fifty Years of the World Court: A Critical Appraisal*,

have continued to feature prominently in the voluminous annals of the World Court ever since the 1923 *S.S. Wimbledon (France, Britain, Italy, Japan v. Germany; Poland Intervening)* and the 1948-1949 *Corfu Channel (UK/Albania)* Judgments, which inaugurated the contentious jurisprudence of the Permanent Court of International Justice (PCIJ) and its successor, the ICJ, respectively, by cases that arose out of incidents involving vessels and that have proven to have far-reaching implications for navigational rights and freedoms (in the context of the legal regimes of interoceanic canals, international straits, territorial sea, and the use of mines at sea).²

The other premise is that these – like all other – contributions of the Court substantiate what its former President Stephen M. Schwebel has perceived as fundamental factors of “the intrinsic” authority of the Court’s

in *Are International Institutions Doing Their Job? 90th ASIL Annual Meeting, Washington D.C., 27-30 March 1996* 339, 345 (1997); S.M. Schwebel, The Impact of the International Court of Justice, in *Boutros Boutros-Ghali Amicorum Discipulorumque Liber* 663, 669-670 (Bruylant 1998); S.M. Schwebel, The Contribution of the International Court of Justice to the Development of International Law, in W.P. Heere ed., *International Law and The Hague’s 750th Anniversary* 405-416 (T.M.C. Asser Press 1999); S.M. Schwebel, The Inter-Active Influence of the International Court of Justice and the International Law Commission, in *Liber Amicorum in Memoriam of Judge José Maria Ruda* 479, 480, 484-487, 492-495 (Kluwer Law International 2000).

Cf. appraisal by former ICJ President Eduardo Jimenez de Aréchaga, Customary Law and the Law of the Sea, in Jerzy Makarczyk ed., *Essays in Honour of Judge Manfred Lachs* 575-585 (Martinus Nijhoff 1984); Jean-Pierre Queneudec, The Role of the International Court of Justice and Other Tribunals in the Development of the Law of the Sea, in Alfred H.A. Soons ed., *Implementation of the Law of the Sea Convention Through International Institutions* 574-600 (University of Hawaii 1990); Barbara Kwiatkowska, Stockholm Lecture on The Contribution of the International Court of Justice to the Development of the Law of the Sea, available at <<http://www.law.uu.nl/english/isep/nilos/paper.asp>>; B. Kwiatkowska, The Law of the Sea Related Cases in the International Court of Justice During the Presidency of Judge Stephen M. Schwebel (1997-2000), 16 *International Journal of Marine and Coastal Law (IJMCL)* 1-40 (2001), available at <<http://www.wkap.nl/oasis.htm/335941>>, <<http://www.oceanlaw.net/ops/2.htm>> and <<http://www.law.uu.nl/english/isep/nilos/paper.asp>>.

² PCIJ Series A, No.1, 11, 15; ICJ Reports 1947-1948, 15, and 1949, 1, 244. In the former case, the British steamship *Wimbledon*, proceeding from Salonica to the Polish Naval Base at Danzig (Gdansk), was refused passage through the Kiel Canal by Germany. In the latter case, during the incident, which occurred in the Strait of Corfu in 1946, two British destroyers struck mines, the explosion of which caused damage to the vessels and heavy loss of life.

decisions and the coherence of its jurisprudence which are characteristic of the unique role of the ICJ as the principal judicial organ of the United Nations and the world's most senior Court with the broadest material jurisdiction.³ The Court's role in advancing the development of international law, including law of the sea,⁴ finds expression in two paramount functions exercised by the ICJ along with its primary role as a factor and actor in the maintenance of international peace and security and today, peacemaking, including by means of "preventive diplomacy".⁵ The two functions pertaining to the development of law include the ICJ's role as the most authoritative interpreter of the legal obligations of states in disputes between them and its role in both advisory and contentious

³ Schwebel, The Contribution, *supra* note 1, at 407, relying on the concept of "intrinsic" authority of the Court's decisions as expounded by Sir Hersch Lauterpacht, *The Development of International Law by the International Court* 22 (Revised edn, Cambridge 1982); also quoted as the motto to this Preface. On Judge Schwebel's faithful continuation of attainments of Sir Hersch which remain unsurpassed by any international lawyer of this century, see Kwiatkowska, The Law of the Sea Related Cases, *supra* note 1, at 3; Peter H. Kooymans, Two Remarkable Men Have Left the International Court of Justice, 13 *Leiden Journal of International Law* (LJIL) 343, 345 (2000).

⁴ Cf. remarks of President Schwebel, *id.*, that: "Of course, Article 59 of the Statute of the Court provides that '[t]he decision of the Court has no binding force except between the parties and in respect of that particular case.' Nevertheless, it is undeniable that the decisions and opinions of the Court may have an influence extending beyond that particular case". Cf. also S.M. Schwebel, *Justice in International Law – Selected Writings of Judge Stephen M. Schwebel* 10-11 (Cambridge 1994); Sir Robert Jennings, The Role of the International Court of Justice, 68 *British Yearbook of International Law* (BYIL) 1, 39-44 (1997); and review by Judge Schwebel of the book of John Collier and Vaughan Lowe, *The Settlement of Disputes in International Law* (Oxford 2000), 95 *American Journal of International Law* (AJIL) 464, 466 (2001).

⁵ For an analysis of this Court's role as elucidated in Statements of President Schwebel, *infra* note 6, see Malcolm N. Shaw, Peaceful Resolution of "Political Disputes": The Desirable Parameters of Jurisdiction of the International Court of Justice, in *Peaceful Resolution of Major International Disputes* 49, 55-56 (United Nations 1999); and remarks on impacts of judicial and arbitral settlements as between the parties by Barbara Kwiatkowska, Peaceful Settlement of Oceans and Other Environmental Disputes Under International Agreements, in *UNESCO Global Conference on Oceans and Coasts at Rio+10: Toward the 2002 Johannesburg World Summit, Paris, 3-7 December 2001* (2001), available at <<http://www.udel.edu/CMS/csmprio+10>>, "Participants use only"; password <OCR+10PA>.

proceedings as the supreme interpreter of the United Nations Charter and of its associated instruments.⁶ In his illuminating reflections on these functions, Sir Robert Jennings observed that:

Even where a court develops the law in the sense of adapting, modifying, filling gaps, interpreting, or even branching out in a new direction, the decision must be seen to emanate reasonably and logically from existing and previously ascertainable law. A court has no purely legislative competence. Naturally the court in probably most difficult cases – and for the most part it is only difficult cases that are brought before international tribunals – may have to make a choice between probably widely differing solutions. It may even choose a course which has elements of novelty. But whatever juridical design it decides to construct in its decision, it must do so, and be seen to do so, from the building materials available in already existing law. The design may be an imaginative artifact, but the bricks used in its construction must be recognizable and familiar.⁷

⁶ For an excellent appraisal of all three fundamental functions of the ICJ, see Statements of Judge Stephen M. Schwebel, President of the International Court of Justice, to the 52nd General Assembly, UN Doc. A/52/PV.36, 1-5, 27 October 1997, *reprinted in ICJ Yearbook 1997-1998* 288-300 (No.52), 92 AJIL 612-517 (1998), to the 53rd General Assembly, UN Doc. A/53/PV.44, 1-5, 27 October 1998, *reprinted in ICJ Yearbook 1998-1999* 316-323 (No.53) and to the 54th General Assembly, UN Doc. A/54/PV.39, 1-5, 26 October 1999, *reprinted in ICJ Yearbook 1999-2000* 282-288 (No.54); Statements of Judge Gilbert Guillaume, President of the International Court of Justice, to the 55th General Assembly, 26 October 2000, *reprinted in ICJ Yearbook 2000-2001* (No.55, in press) and to the 56th General Assembly, UN Doc. A/56/PV.32, 30 October 2001 <<http://www.icj-cij.org>>.

See also General Assembly Resolution 55/2 on the United Nations Millennium Declaration of 8 September 2000, reaffirming commitment to “the purposes and principles of the Charter of the United Nations, which have proved timeless and universal” and to “resolution of disputes by peaceful means and in conformity with the principles of justice and international law” (paras 3-4), and resolving “to strengthen the International Court of Justice, in order to ensure justice and the rule of law in international affairs” (para.30). Cf. *infra* notes 23 and 41.

⁷ Jennings, *supra* note 4, at 43. For detailed surveys, see Hugh Thirlway, *The Law and Procedure of the International Court of Justice 1960-1989*, Part I, 60 BYIL 1-157 (1989); Part II, 61 BYIL 1-133 (1990); Part III, 62 BYIL 1-75 (1991); Part IV, 63 BYIL 1-96 (1992); Part V, 64 BYIL 1-54 (1993); Part VI, 65 BYIL 1-102 (1994); Part VII, 66 BYIL 1-96 (1995); Part VIII, 67 BYIL 1-73 (1996); Part IX, 69 BYIL 1-83 (1998); Part X, 70 BYIL 1-63 (1999). This series continues a series of articles

The critical role of consistency of the decisions of the ICJ and its predecessor PCIJ in the foregoing process was accurately appraised by Judge Stephen M. Schwebel as follows:

The Court itself has characteristically followed its own reasoning, although it is not bound by precedent. It has good reasons for doing so: its decisions are a repository of legal analysis and experience to which it is natural to adhere. They embody what the Court has considered or determined to be the law. Respect for decisions given in the past makes for legal certainty and continuity, for a measure of predictability; it enhances stability. The coherence and consistency of its decisions has strengthened the Court's legitimacy, thereby promoting respect for its jurisprudence.⁸

Whereas, so construed, coherence and consistency of the jurisprudence of the Court has been mutually reinforcing with the distinguished line of arbitral awards dating back to the 1794 Jay Treaty,⁹ the recent

published by Sir Gerald Fitzmaurice in the BYIL in 1950-1959, and then in tribute to Sir Hersch Lauterpacht in 1961-1963. See also Giuliana Ziccardi Capaldo, *Repertory of Decisions of the International Court of Justice (1947-1992)*, Vols I-II (Martinus Nijhoff 1995).

⁸ Schwebel, *The Contribution*, *supra* note 1, at 407, excerpted from the motto to this Preface; and *supra* notes 3-4. Cf. Manley O. Hudson, *The Permanent Court of International Justice, 1920-1942: A Treatise* 612-615 (The Macmillan Company 1943); Sir Hersch Lauterpacht, *supra* note 3, at 387, remarking that "it is incumbent upon courts to examine all available evidence in a manner revealing the factual links of judicial reasoning resulting in the acceptance or rejection of practices as constituting binding custom"; Rosalyn Higgins, *Problems and Process: International Law and How We Use It* 202-204 (Oxford 1994); Mohamed Shahabuddeen, *Precedent in the World Court* (Hersch Lauterpacht Memorial Lectures, Cambridge 1996); and Shabtai Rosenne, *The Law and Practice of the International Court, 1920-1996* 1609-1615 (Martinus Nijhoff 1997).

⁹ On the unquestionably equal authority of ICJ Judgments and Awards of Inter-State Arbitral Tribunals, see Hersch Lauterpacht, *The Function of Law in the International Community* 380 (1933), as discussed by Sir Robert Jennings, *supra* note 4, at 5-9. For a definition of inter-state arbitration, see *Qatar v. Bahrain Maritime Delimitation and Territorial Questions (Merits)* Judgment, para.113, ICJ Reports 2001 (in press), reprinted in 40 ILM 847 (2001). See also Shabtai Rosenne, *The International Court of Justice and International Arbitration*, 6 LJIL 297-321 (1993); John G. Merrills, *International Dispute Settlement* 88-120 (Cambridge 1998); and J.G. Merrills, *The Contribution of the Permanent Court of Arbitration to International Law and to the Settlement of Disputes by Peaceful Means*, in *The Permanent Court of Arbitration:*

phenomenon of the so-called “proliferation of international courts and tribunals” added a new dimension to the need of preserving such consistency. As the then President Schwebel remarked: “The Court’s standing appears undiminished by the availability of arbitration and the recent appearance on the scene of other international tribunals with specific mandates, such as the International Tribunal for the Law of the Sea (ITLOS) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). [...] The Court with its distinguished record remains pre-eminent”.¹⁰ Similarly, in the view of Shabtai Rosenne: “While there is no formal hierarchy of international courts and tribunals, the pre-eminence of the Permanent Court and the present International Court is today generally accepted. Any other international adjudicatory body which ignored relevant dicta and decisions of the International Court would jeopardize its credibility. The constant accretion of judicial precedents is creating what is now a substantial body of international case-law”.¹¹ The awareness of this effect is also reflected in a survey of the law and practice of ITLOS by Judge Gudmundur Eiriksson, who stresses that while the general question of respect for the ICJ decisions is shared with other international tribunals, this question is of particularly outstanding relevance for the ITLOS, which is an autonomous treaty organ within the

International Arbitration and Dispute Resolution, Summaries of Awards, Settlement Agreements and Reports 3-27 (Kluwer 1999).

¹⁰ Schwebel, *The Impact*, *supra* note 1, at 673. Cf., e.g., Elihu Lauterpacht, *Aspects of the Administration of International Justice* 9-22 (Hersch Lauterpacht Memorial Lectures, Cambridge 1991); Antonio Cassese, *International Law* 219-220 (Oxford 2001); and other works quoted *infra* notes 11-19.

¹¹ Rosenne, *The Law and Practice*, *supra* note 8, at 1609. Cf. holding that: “The current range of international legal obligations benefits from a process of accretion and cumulation”, in the 2000 *Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award, para.52, rendered by the Arbitral Tribunal presided over by Judge Schwebel. See 39 ILM 1359 (2000); <<http://www.worldbank.org/jcsid>>; *Oceans and the Law of the Sea – Report of the Secretary-General*, UN Doc. A/56/58, 80-81 (2001) <<http://www.un.org/Depts/los>>; and *infra* notes 31, 38 and 40. See also Shabtai Rosenne, *An Introduction to International Litigation*, in *Preparing for Boundary Litigation/Arbitration* 57, 60 (International Boundaries Research Unit 1999), noting that: “It is unlikely that these specialised bodies would produce conflicting decisions on matters of general international law. In that respect, the general supremacy of the ICJ is not really at risk”.

United Nations system and whose Statute and Rules are modelled on those of the ICJ.¹²

The current practice of ITLOS and Arbitral Tribunals has substantiated Judge Schwebel's anticipation – shared by other international lawyers – of interplay and interaction between the Court and other international tribunals, as well as his belief that “the fabric of international law and life is resilient enough¹³ to sustain such occasional differences as may arise”.¹⁴ While welcoming the creation of specialized international tribunals as making “international law more effective”, President Stephen M. Schwebel reiterated in his Statement on the occasion of the closing of the Second and the opening of the Third Millennium that:

A greater range of international legal fora is likely to mean that more disputes are submitted to international judicial settlement. The more

¹² Gudmundur Eiriksson, *The International Tribunal for the Law of the Sea* 146-147 (Martinus Nijhoff 2000). On Article 33 of the ITLOS Statute which mirrors Article 59 of the ICJ Statute (referred to *supra* note 4), see *id.*, at 271-272. Note that Agreements on Cooperation and Relationship Between the United Nations and the International Seabed Authority (1997 UNGA Resolution 52/27, Article 5) and the ITLOS (1998 UNGA Resolution 52/251, Article 4(1)(iii)) provide for furnishing, subject to requirements of confidentiality, of information requested by the ICJ. On the law and practice of the ITLOS, see also especially Shabtai Rosenne, *Establishing the ITLOS*, 89 AJIL 806-814 (1995); S. Rosenne, *International Tribunal for the Law of the Sea: 1996-97 Survey*, 13 IJMCL 487-514 (1998), *1998 Survey*, 14 IJMCL 453-465 (1999), and *1999 Survey*, 15 IJMCL 443-474 (2000). For a summary of the ITLOS's case-law, see *ITLOS Press No.58*, 18 October 2001. On the *Ireland v. UK Mox Plant (Provisional Measures)* Order, rendered pending the establishment of an Annex VII Arbitral Tribunal (PCA), see *ITLOS Press No.62*, 3 December 2001.

¹³ For an example of testing such resilience, see the 1995 *Loizidou v. Turkey* Judgment of the Strasbourg Court of Human Rights [90 AJIL 98 (1996)], whose insistence on separateness was found to be “disquieting” by Sir Robert Jennings, *The Judiciary, International and National, and the Development of International Law*, 45 *International and Comparative Law Quarterly* 1, 5-6 (1996). See also criticism raised in the Statement of President Guillaume to the 55th UNGA, *supra* note 6, of the application in the ICTY *Prosecutor v. Tadic* Judgment, paras 88-145 [38 ILM 1518 (1999); 94 AJIL 571 (2000)], of an “overall control” standard being less strict than an “effective control” standard applied in the *Nicaragua v. USA (Merits)* Judgment, ICJ Reports 1986, 45-65.

¹⁴ Statement of President Schwebel to the 53rd UNGA, *supra* note 6, also welcoming the first instance of judicial activity of ITLOS as “a notable event in the life of international courts”; and Schwebel, *The Contribution*, *supra* note 1, at 406.

international adjudication there is, the more there is likely to be: the “judicial habit” may stimulate healthy imitation.¹⁵

A similar view was expressed in the Statement of ITLOS President Chandrasekhara Rao in 2000 when he characterized the establishment of new tribunals in recent years as “a positive development” and remarked that: “The effect of more tribunals being available to litigants is that more disputes have come to be resolved by parties by means of their choice”.¹⁶ At the same time, President Schwebel appreciated the virtue – as also supported by current President Gilbert Guillaume – in enabling other international tribunals, both those which are organs of the United Nations (such as the ICTY or the ICTR) and those which are not (such as the ITLOS or the ICC) to request advisory opinions of the ICJ on issues of international law that arise in cases before those tribunals and are of importance to the unity of international law.¹⁷

As this *Reference Guide* was prepared in response to the then President Schwebel’s belief that it is important for the Court, basing itself on the

¹⁵ Statements of President Schwebel to the 53rd and the 54th UNGA, *supra* note 6, also noting that “increase in recourse to the Court is likely to endure, at any rate if a state of relative détente in international relations endures”. Note that President Schwebel’s triennium (1997-2000) marked the busiest docket in the history of the Court, which has been continued during the current triennium (2000-2003) of President Guillaume. Cf. Merrills, *supra* note 9, at 289; and Statements of President Guillaume to the 55th and 56th UNGA, *supra* note 6.

¹⁶ Statement of ITLOS President Chandrasekhara Rao to the 55th General Assembly, UN Doc. A/55/PV.44, 1, 2, 30 October 2000, also noting that the exhortation of the UN Millennium Declaration to ensure compliance with the decisions of the ICJ, pursuant to the UN Charter, is equally relevant to decisions of all international courts and tribunals.

¹⁷ Statements of President Schwebel to the 54th UNGA and of President Guillaume to the 55th-56th UNGA, *supra* note 6. Cf., e.g., Hans Corell, *The Feasibility of Implementing The Hague/St. Petersburg Centennial Recommendations Under the United Nations System*, in *Peaceful Resolution*, *supra* note 5, at 31; Rosenne, *An Introduction to International Litigation*, *supra* note 11; Statement of President Jacques Chirac of France, *ICJ Communiqué* No.2000/36, 26 October 2000 <<http://www.icj-cij.org>>; and Recommendations for the 2002 Johannesburg World Summit by Kwiatkowska, *Peaceful Settlement*, *supra* note 5. See also Article 119 of the 1998 UN Rome Statute of the International Criminal Court [37 ILM 999 (1998)] <<http://www.un.org/icc>>, and on its signing by the United States on 31 December 2000, see 95 AJIL 397-400 (2001); review by Judge Schwebel of Collier’s and Lowe’s book, *supra* note 4, at 465.

“intrinsic” authority and the consistency of its decisions, to continue to play and to further explore throughout the first century of the Third Millennium its pre-eminently unique role as the principal judicial organ of the United Nations,¹⁸ the *Reference Guide* was dedicated to his outstanding commitment to “the strictly judicial tradition of the Court”.¹⁹

Whereas the format of specific entries covered by this *Reference Guide* largely corresponds to the Parts and Annexes of the 1982 United Nations Law of the Sea Convention (LOSC) and the 1994 Agreement Relating to the Implementation of its Part XI, the heading of each entry also contains, as appropriate, references to the preceding provisions of the Report of the Second Committee (Territorial Sea) of the 1930 League of Nations Hague Conference for the Codification of International Law (Hague Draft) and the four 1958 United Nations Conventions and Optional Protocol.²⁰ This will enable the reader to identify the origin of various LOSC provisions in those of the 1958 Conventions, of which the Territorial Sea and Contiguous Zone Convention (TSC) drew heavily – as a result of *travaux*

¹⁸ Statement of President Schwebel to the 54th UNGA, *supra* note 6; and main text accompanying *supra* note 3.

¹⁹ Hudson, *supra* note 8, at 344; Manley O. Hudson, 43 AJIL 339 (1949), remarking: “The President is far more than the director of the public proceedings devoted to hearing agents or counsel appearing in cases before the Court. He is the guardian of the strictly judicial tradition of the Court. Upon him falls the delicate task of threading the deliberations of the judges to conclusions which will command the world’s assent”. Cf. also Rosenne, *The Law and Practice*, *supra* note 8, at 401-407. For President Schwebel’s Bibliography, see Arthur Eyffinger, *The International Court of Justice 1946-1996* 323 (Kluwer 1996); *ICJ Yearbook 1997-1998* 20-21 (No.52); *ICJ Yearbook 1998-1999* 22-23 (No.53); the Court’s website <<http://www.icj-cij.org/icjwww/igeneralinformation/icvjjudge/Schwebel.html>>; and Johns Hopkins University’s website <<http://sais-jhu.edu/depts/Intlaw/index.htm>>. On the prestigious Manley O. Hudson Medal awarded unanimously to Judge Stephen M. Schwebel in the year 2000, see <http://www.asil.org/annual_meeting/friday.htm#awards>.

²⁰ For detailed surveys, taking due account of the impacts of these stages in the development of the modern international law of the sea, see Myron H. Nordquist, Editor-in-Chief, Satya N. Nandan, Shabtai Rosenne and Alexander Yankov, General Editors, *United Nations Convention on the Law of the Sea 1982 – A Commentary*, Vol.I (1985), Vol.II (1993), Vol.III (1995), Vol.IV (1991), Vol.V (1989), Vol.VI (in press) (Martinus Nijhoff). Cf. Jean-Pierre Lévy, *The United Nations Convention on the Law of the Sea*, in *Continental Shelf Limits – The Scientific and Legal Interface* 8-16 (Oxford 2000).

préparatoires of the International Law Commission – on the 1930 Hague Draft.²¹ By contrast to the 1994 Part XI Agreement, the 1995 United Nations Fish Stocks Agreement, which was adopted in a follow-up to the 1992 United Nations Conference on Environment and Development (UNCED), does not form a part of the Law of the Sea Convention. However, since the 1995 Agreement significantly promotes the implementation of the fisheries provisions of the LOSC, as partly originated from the 1958 High Seas and the High Seas Fishing Conventions (HSC and HSFC),²² the Agreement’s provisions are also referred to at this *Guide*’s specific entries, as appropriate. In addition, although the 1972 United Nations Stockholm Declaration and Action Plan and the 1992 UNCED Rio Declaration and Agenda 21, to be reviewed by the 2002 Johannesburg World Summit, are of a non-binding nature, the importance of collaborative frameworks provided by these instruments for the codification and progressive development of the law of the sea justified their inclusion in the headings of entries concerned as well.²³

²¹ Cf. Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 23-137, esp. 24 (Oxford 1999); Robin R. Churchill and A. Vaughan Lowe, *The Law of the Sea* 13-22, esp. 15 (Manchester 1999). Note that the 1930 Hague Draft was extensively discussed by the parties in the pleadings of the *Corfu Channel* and the *Anglo/Norwegian Fisheries* cases. Cf. the *Anglo/Norwegian Pleadings*, Vol.I, 395-6 (Counter-Memorial of Norway), invoking the *Corfu Pleadings* [Vol.III, 269-71 (11 November 1948, Agent Sir Eric Beckett)] to the effect that international conventions, referred to under Article 38(1)(a) of the ICJ Statute, “are finally agreed and ratified conventions,” and that the Court is not entitled to apply as law in cases before it conventions which are only signed, and still less a mere 1930 Draft; Vol.II, 432-9 (Reply of UK), Vol.III, 301-2 (Rejoinder of Norway).

²² Cf. Churchill and Lowe, *supra* note 21, at 279-327; Dolliver Nelson, The Development of the Legal Regime of High Seas Fisheries, in Alan Boyle and David Freestone eds, *International Law and Sustainable Development: Past Achievements and Future Challenges* 113-134 (Oxford 1999); Moritaka Hayashi, The 1995 UN Fish Stocks Agreement and the Law of the Sea, in Davor Vidas and Willy Ostreng eds, *Order for the Oceans at the Turn of the Century* 37-53 (Kluwer 1999); William Edeson, Closing the Gap: The Role of “Soft” International Instruments to Control Fishing, 20 *Australian Yearbook of International Law* 1999 83-104 (2000).

²³ See the recognition in the 2000 United Nations Millennium Declaration, *supra* note 6, of “respect for nature” as one of the fundamental values which are “essential to international relations in the Twenty-First Century” (para.6) and this Declaration’s express reaffirmation of “support for the principles of sustainable development”, including those set in the UNCED Agenda 21 (para.22).

Consequently, the reader will be able to easily relate each judicial, arbitral or other third party decision to the respective stage of codification and progressive development of the law of the sea on a particular issue. For instance, whereas the 1927 *France v. Turkey S.S. Lotus* Judgment was rendered during the *travaux* of the League of Nations Committee of Experts for the Progressive Codification of International Law, the Judgment's pronouncement that "vessels on the high seas are subject to no authority except that of the State whose flag they fly", as recognized by all six dissenting Judges, and as reflected in the 1949 *Corfu Channel (Merits)* Judgment, was subsequently codified in Article 6(1) of the 1958 HSC, as restated in Article 92(1) of the 1982 LOSC.²⁴ It will also be apparent from the global treaties and instruments listed in the heading of each entry that, for instance, the pair of the 1973-1974 *Australia v. France; New Zealand v. France Nuclear Tests* cases were settled shortly after the 1972 UN Stockholm Conference had initiated a global impetus for protection and preservation of the natural, including marine, environment,²⁵ and that the proceedings of the 1995-1998 *Spain v. Canada Fisheries (Jurisdiction)* case overlapped with the final stage of *travaux* of the 1995 UN Fish Stocks Agreement, which had not yet during these proceedings entered into force (this took place only on 11 December 2001).²⁶ The appreciation of such relationships between global framework instruments referred to above and decisions of various third party dispute settlement fora is a *conditio sine qua non* of adequate assessment of the contributions made by each of those decisions to the development of the law of the sea as part of general international law.

A Reference Guide covers not only decisions on the merits, but all other relevant decisions of the ICJ and other third party fora as well. This is because the impacts of decisions by international courts and tribunals on the development of rules of law can – like the impacts between the parties to the disputes concerned – be achieved as much by the decisions settling

²⁴ See *A Reference Guide: High Seas – Status of Ships/Criminal Jurisdiction* *infra*.

²⁵ See *A Reference Guide: Peaceful Uses of the Sea – Nuclear (Atmospheric and Underground) Weapon Tests* *infra*. Cf. Barbara Kwiatkowska, *New Zealand v. France Nuclear Tests: The Dismissed Case of Lasting Significance*, 37 *Virginia Journal of International Law* 107-190 (1996).

²⁶ See *A Reference Guide: Fisheries* *infra*. Cf. Barbara Kwiatkowska, *The Spain v. Canada Fisheries (Jurisdiction) Judgment*, 93 *AJIL* 502-507 (1999); Robin R. Churchill, *Fisheries Jurisdiction (Spain v. Canada) Case*, 12 *LJIL* 597-611 (1999).

the merits of the disputes as by those rendered during various procedural phases.²⁷ Consequently, all the decisions of the ICJ, ITLOS and Arbitral Tribunals are being regularly reported upon in the annual *Oceans and the Law of the Sea Reports* of the UN Secretary-General.²⁸ In view of their accepted contributions, this *Reference Guide* covers, moreover, individual Opinions appended by Judges and Arbitrators to the decisions concerned,²⁹ and primarily in cases before the PCIJ and ICJ, but also in some cases before the ITLOS – the written and oral pleadings.³⁰ In addition, the *Guide* covers valuable pleadings in the 2000 *Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award, which was unprecedented in departing from the previously fundamental principle of the privacy of arbitration proceedings.³¹

Under each entry covered by this *Reference Guide*, the relevant Judgments and Orders of the PCIJ and the ICJ are first listed chronologically, followed by a separate listing of Awards of the Arbitral

²⁷ See, e.g., references to the 1998 *Spain v. Canada Fisheries (Jurisdiction)* Judgment, in *A Reference Guide: Exclusive Economic (Fishery) Zone*, and those to the 1999 *Southern Bluefin Tuna (Provisional Measures)* Order, *id.*, Protection and Preservation of the Marine Environment – Precautionary Approach *infra*.

²⁸ See, e.g., UN Doc. A/56/58, *supra* note 11, at 77-80, and Add.1, at 19-20. See also *infra* note 34. The Reports – along with other documents – are annually reproduced and indexed, in Barbara Kwiatkowska, Editor-in-Chief, Harm Dotinga, Erik Molenaar, Alex Oude Elferink and Alfred Soons, Co-Editors, *International Organizations and the Law of the Sea – Documentary Yearbook*, Vols 1-1985/15-1999, Vol.16-2000 in press (Martinus Nijhoff). The current literature on the case-law concerned is annually listed and indexed in *The Law of the Sea – A Select Bibliography* (United Nations).

²⁹ For assessments of individual Opinions, see especially Sir Robert Jennings, *The Internal Judicial Practice of the International Court of Justice*, 59 BYIL 31-47 (1988); R. Jennings, *The Collegiate Responsibility and Authority of the International Court of Justice*, in *International Law at a Time of Perplexity – Essays in Honour of Shabtai Rosenne* 343-353 (Martinus Nijhoff 1989); Rosenne, *The Law and Practice*, *supra* note 8, at 1579-1585; and Schwebel, *The Inter-Active Influence*, *supra* note 1, at 482, 485-488, 504-505.

³⁰ On the value of pleadings as important evidence of state practice, see especially Schwebel, *The Inter-Active Influence*, *supra* note 1, at 483, 487-488 and 504-505.

³¹ Not only were the Award and its written and oral pleadings placed on the Internet, but also public access was allowed to the Oral Hearings. See *supra* note 11; and Barbara Kwiatkowska, *The Australia and New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award of the First Annex VII Arbitral Tribunal, 16 IJMC 239-294 (2001) <www.wkap.nl/oasis.htm/357926>; <<http://www.oceanlaw.net/ops/1.htm>> and <www.law.uu.nl/english/isep/nilos/paper.asp>.

Tribunals and other third party decisions (e.g., of various United Nations bodies, conciliation commissions or the WTO Appellate Body), as well as by Judgments and Orders of the ITLOS. In the case of sub-entries, all the Judgments, Awards and other decisions are jointly listed chronologically.³²

All Judgments and Orders, including Opinions of Judges, rendered in various phases of particular cases are jointly listed with reference to their sources (PCIJ Series and ICJ Reports), specification of names of the Court's Presidents and the results of voting, under entries where they effected the principal contribution to the development of law.³³ The same applies to Awards of the Arbitral Tribunals and other third party decisions³⁴ and Judgments and Orders of the ITLOS.³⁵ Subsequently, only specific decisions of a given case are referred to elsewhere under the various entries and sub-entries to which they apply. Under each main entry, treaties implementing the PCIJ and ICJ Judgments³⁶ and/or their other major impacts as between the parties³⁷ are also specified. No such

³² See, e.g., *A Reference Guide: Equitable Maritime Boundary Delimitation -1982 LOSC, Articles 74(1)/83(1) to Articles 74(4)/83(4) infra.*

³³ E.g., for the *Wimbledon* case (*supra* note 2), see *A Reference Guide: Inter-Oceanic Canals*; for the *Corfu Channel* case, see *id.*, *Straits Used for International Navigation*; and for *Spain v. Canada Fisheries* case, see *id.*, *Fisheries infra.*

³⁴ See, e.g., *A Reference Guide: Equitable Maritime Boundary Delimitation, and Regime of Islands infra*, which along with Awards cover, e.g., the 1981 *Iceland/Norway (Jan Mayen)* Conciliation Commission, the 1993 *UN Iraq/Kuwait Boundary Demarcation Commission* and the 2002 *UN Eritrea/Ethiopia Boundary Commission*. Both these major entries list decisions on sovereignty over the land and insular territory which are closely inter-related with maritime delimitation and other oceans disputes and which are covered by the *Oceans and the Law of the Sea Reports*. See, e.g., UN Doc. A/56/58, *supra* note 11, at 78. For the 1986-1990 *New Zealand v. France The Rainbow Warrior* case, comprising a Ruling by the UN Secretary-General and two Awards, see *A Reference Guide: Access to, Jurisdiction and Treatment in Ports; Kwiatkowska, supra* note 25, at 120-121. Cf. *supra* note 9.

³⁵ See, e.g., *A Reference Guide: Settlement of Disputes – Prompt Release of Vessels and Crews infra*. Cf. *supra* note 12.

³⁶ E.g., for treaties implementing the *Corfu Channel* case, see *A Reference Guide: Straits Used for International Navigation*; and for those implementing many maritime boundary related decisions of the PCIJ and ICJ, see *id.*, *Equitable Maritime Boundary Delimitation infra.*

³⁷ For the impacts of the 1998 *Spain v. Canada Fisheries (Jurisdiction)* Judgment in terms of Canada's ratification on 3 August 1999 of the 1995 UN Fish Stocks Agreements and initiation of work aimed at developing specific dispute settlement

specification is made with respect to the decisions of other fora, with the exception of the impact of the 2000 *Southern Bluefin Tuna Award*, which marked the first instance of application of the LOSC's Annex VII.³⁸ Whereas the multiple contributions of the PCIJ and the older ICJ cases are briefly summarized in this *Reference Guide*, this is not done with respect to the current cases of the Court, of which texts and related literature, especially AJIL case reports under editorship of Bernard H. Oxman – like those concerning the ITLOS, Arbitral Tribunals and other third party fora – are easily available on and/or can be traced through the Internet.

Each entry and sub-entry covered by *A Reference Guide* commences with a listing – in the manner explained above – of the “Relevant Jurisprudence”, and includes cross-references to other entries and sub-entries, as appropriate. In the cases of broad entries, such as Internal Waters, Territorial Sea and Baselines, Equitable Maritime Boundary Delimitation, Regime of Islands, Protection and Preservation of the Marine Environment or Peaceful Uses of the Sea, the specific sub-entries are followed by the chronological lists of references to the major Awards and some decisions of national courts,³⁹ as well as bilateral, regional and global treaties in the decisions (including their individual Opinions and pleadings) of the PCIJ and ICJ as well as other third party fora. The listing of treaties reflects jurisprudential recognition of the fact that the particular density of “treaties implementing or relating to provisions of that great law-making treaty”, the Law of the Sea Convention,⁴⁰ forms a remarkable part of the modern law of the sea.⁴¹

procedures of the NAFO, see *A Reference Guide: Fisheries*; and for the 1956 *Greece v. UK Ambatielos Claim Award*, which followed the 1952-1953 *Ambatielos* Judgments, see *id.*, High Seas *infra*.

³⁸ For the impacts of the 2000 *Southern Bluefin Tuna Award* (*supra* notes 11 and 31) in terms of resolution of the dispute on 29 May 2001, as well as New Zealand's ratification on 18 April 2001 of the 1995 UN Fish Stocks Agreement, see *A Reference Guide: Settlement of Disputes – Preventive Diplomacy A) and D)*. Cf. William R. Mansfield, *The Southern Bluefin Tuna Arbitration: Comments on Professor Barbara Kwiatkowska's Article*, 16 *IJMCL* 361-366 (2001) <<http://www.wkap.nl/oasis.html/357934>>; also available at <<http://www.mft.govt.nz/support/legal/seapol.html>>. On the second instance of an Annex VII Arbitral Tribunal in the pending *Ireland v. UK Mox Plant* case, see *supra* note 12.

³⁹ Cf. *supra* notes 9 and 34.

⁴⁰ See 2000 *Southern Bluefin Tuna Award*, *supra* note 11, para.44. On the significance of the Award's holdings for innumerable special treaties implementing the LOSC, see

I wish to express my gratitude to Mr. Alan Stephens, the Publishing Director, and Mrs. Annebeth Rosenboom, the Senior Publisher, of Kluwer Law International, as well as Mr Phil Johnstone, Editor at Kluwer's Lancaster office, for their excellent, as always, cooperation in the publication of *A Reference Guide*. Special words of thanks are due to Professor Alfred H.A. Soons, Director of the Institute of Public International Law and the NILOS at Utrecht University Faculty of Law, as well as to other NILOS staff members, Dr. Alex Oude Elferink, Dr. Erik Molenaar and Mr. Harm Dotinga, for their friendship and collaborative spirit which enabled the carrying out and completing of *A Reference Guide* along with multiple other NILOS activities.

It is to be hoped that this *Guide* will fulfill its intended purpose to benefit further development of the law of the sea by the International Court of Justice and other courts and tribunals, as a part of general international law and as a part of the global system of peace and security throughout the first century of the Third Millennium.⁴² It is also hoped that this *Guide's* publication will perhaps lead to its extended revision in the future.

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9 March 2002

Kwiatkowska, *supra* note 31.

⁴¹ For indexes of such innumerable global and regional treaties, see *A Reference Guide: Relation to Other Conventions infra*. The growing importance of those treaties is shown by the annual *United Nations Oceans and the Law of the Sea Reports*, *supra* note 28, and it was stressed in a Statement of the UN Legal Counsel, Dr. Hans Corell, UN Doc. A/55/274 (2000), referring to over 400 treaties existing in the field of ocean affairs.

Cf. Dr. Corell's Foreword, in *Treaty Handbook* iv-v (United Nations 2001), noting in the context of the implementation of commitment expressed in the 2000 United Nations Millennium Declaration to advancing the international rule of law (*supra* notes 6 and 23), that treaties are a primary source of international law. For an appraisal of the Court's jurisprudence concerning the law of treaties in the context of its interaction with the ILC's work, see Schwebel, *The Inter-Active Influence*, *supra* note 1, at 488-492; and for detailed surveys, see Thirlway, *supra* note 7.

⁴² See main text accompanying *supra* notes 1-19.

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A.C.	Law Reports (Third Series) Appeal Cases 1891- (UK)
AFDI	<i>Annuaire Francais de Droit International</i>
AJIL	<i>American Journal of International Law</i>
Annuaire IDI	<i>Annuaire de l'Institut de Droit International – Yearbook of the Institute of International Law</i>
App. Cas.	Law Reports (Second Series) Appeal Cases 1875-1890 (UK)
Australian YIL	<i>Australian Yearbook of International Law</i>
Bell C.C.	Bell's Crown Cases 1856-1860 (UK)
BFSP	British and Foreign State Papers (UK)
BYIL	<i>British Yearbook of International Law</i>
Can. S.Ct.	Canadian Supreme Court Reports 1876-1922 (Canada)
Canadian YIL	<i>Canadian Yearbook of International Law</i>
Charney/ASIL	J.I. Charney and L.M. Alexander eds, <i>International Maritime Boundaries</i> , Vols I-II (ASIL/Martinus Nijhoff 1993), Vol.III (1998)
Clunet	<i>Journal du Droit International</i> (Edouard Clunet) 1874- (France)
Cox C.C.	Cox's Criminal Cases 1843-1941 (UK)
C.P.D.	Law Reports (Common Pleas Division) 1875-1890 (UK)
CR	Verbatim Record of Oral Pleadings (ICJ)
Cranch	Cranch's United States Supreme Court Reports 1801-1841 (USA)
C. Rob	Christopher Robinson's Admiralty Reports 1799-1808 (UK)
CTS	Consolidated Treaty Series (C. Parry ed.)
DLR	Dominion Law Reports (Canada)
EPL	<i>Environmental Policy and Law</i>
E.R.	English Reports 1220-1865 (UK)
Exchequer D.	Law Reports Exchequer Division 1875-1880 (UK)
F. (Ct. of Sess.)	Fraser's Sessions Cases 1898-1906 (UK)
Fed.	Federal Reporter 1880-1924 (USA)
Fed. 2nd	Federal Reporter Second Series 1924- (USA)
Fed. Cas.	Federal Cases 1789-1880 (USA)

Decisions of the World Court Relevant to the UN Convention on the Law of the Sea

Fla.	Florida Reports (USA)
ICJ Rep.	<i>Reports of Judgments, Advisory Opinions and Orders</i> (ICJ)
ICLQ	<i>International Comparative Law Quarterly</i>
ILM	<i>International Legal Materials</i>
ILR	<i>International Law Reports</i>
Journal DI	<i>Journal de Droit International</i>
K.B.	Law Reports (Second Series) King's Bench 1891- (UK)
Limits in the Seas	<i>Limits in the Seas – United States Department of State, Bureau of Oceans and International Environmental and Scientific Affairs</i> (USA)
L.J.P.	Law Journal Reports, New Series, Probate, Divorce & Admiralty 1831-1949 (UK)
LNTS	<i>League of Nations Treaty Series</i>
L.R. Mad.	Indian Law Reports (Madras Series)
Netherlands ILR	<i>Netherlands International Law Review</i>
Ocean Dev. & Int'l L.	<i>Ocean Development and International Law</i>
OJEC	<i>Official Journal of Economic Communities</i>
P.	Law Reports (Third Session) Probate Division 1891- (UK)
Pleadings	<i>Pleadings, Oral Arguments, Documents</i> (ICJ)
PCA 1999	P. Hamilton, H.C. Requena, L. van Scheltinga and B. Shifman eds, <i>The Permanent Court of Arbitration: International Arbitration and Dispute Resolution – Summaries of Awards, Settlement Agreements and Reports</i> (Kluwer 1999)
RGDIP	<i>Revue Générale de Droit International Public</i>
RIAA	<i>Reports of International Awards</i> (UN)
Scott	<i>Scott's Cases on International Law</i> 1885
S.L.R.	Scottish Law Review 1886-1963 (UK)
S.L.T.	Scots Law Times (UK)
Stuyt	A.M. Stuyt, <i>Survey of International Arbitrations 1794-1989</i> (Martinus Nijhoff 1990)
Simmonds	K.R. Simmonds ed., <i>Cases on the Law of the Sea</i> , Vol.I (Oceana 1976), Vol.II (1977), Vol.III (1980) and Vol.IV (1984)
TIAS	US Treaties and Other International Acts (USA)
T.L.R.	Times Law Reports (UK)
UNGA	United Nations General Assembly
UNCLOS III	
Off. Rec.	<i>Third United Nations Conference on the Law of the Sea, Official Records, United Nations, Vols I-XVI</i>

UN LOS Bull.	<i>United Nations Law of the Sea Bulletin</i>
UNTS	<i>United Nations Treaty Series</i>
US	US Supreme Court Reports 1754- (USA)
UST	US Treaties and Other International Agreements (USA)
USTS	US Treaty Series (USA)
W.L.R.	Weekly Law Reports 1953- (UK)

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GLOBAL FRAMEWORK INSTRUMENTS

1930 Hague Draft – Report of the Second Committee (Territorial Sea) of the League of Nations Conference for the Codification of International Law, The Hague, 13 March-12 April 1930 [24 AJIL Supp. 169, 234-258 (1930); *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 174-189]

1958 TSC – United Nations Convention on the Territorial Sea and the Contiguous Zone, Geneva, 29 April 1958 [in force: 10 September 1964, 516 UNTS 205]

1958 HSC – United Nations Convention on the High Seas, Geneva, 29 April 1958 [in force: 30 September 1962, 450 UNTS 11]

1958 HSFC – United Nations Convention on Fishing and Conservation of the Living Resources of the High Seas, Geneva, 29 April 1958 [in force: 20 March 1966, 559 UNTS 285]

1958 CSC – United Nations Convention on the Continental Shelf, Geneva, 29 April 1958 [in force: 10 June 1964, 499 UNTS 311]

1958 DSP – United Nations Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes, Geneva, 29 April 1958 [in force: 30 September 1962, 450 UNTS 169]

1972 UN Stockholm Declaration and Action Plan – United Nations Conference on the Human Environment, 16 June 1972: Stockholm Declaration on the Human Environment [11 ILM 1416 (1972)] and Action Plan [UN Doc. A/CONF.48/14/Rev.1 (1972)]; available online at <<http://www.unep.org/Documents/>>

1982 LOSC – United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982 [in force: 16 November 1994, 1833 UNTS 3 (Arabic), 203 (Chinese), 397 (English) and 1834 UNTS 4 (French), 179 (Russian), 371 (Spanish); 21 ILM 1245 (1982)] and 1994 Agreement – Agreement Relating to the Implementation of Part XI of the United

Nations Convention on the Law of the Sea of 10 December 1982, New York, 28 July 1994 [in force: 28 July 1996, 33 ILM 1309 (1994); 34 ILM 1393 (1995)]; both texts in English and their status available online at <<http://www.un.org/Depts/los/>>

1995 SSA – United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, New York, 4 August 1995 [in force: 11 December 2001, 34 ILM 1542 (1995); 90 AJIL 270 (1996)]; text and status available online at <<http://www.un.org/Depts/los/>>

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See also Regime of Islands *infra*.

Land-Dominates-the-Sea (*la terre domine la mer*) Principle

For reliance on the finding of the 1909 *Norway v. Sweden Grisbadarna Maritime Frontier* Award that “the maritime territory is essentially an appurtenance of a land territory” [RIAA XI, 155, 159; 4 AJIL 186, 226 (1910); No.288/Stuyt; Charney/ASIL Report No.9-14 (Anderson)], see *North Sea* Dissent Vice-President Koretsky, ICJ Rep. 1969, 160 n.1; *Gulf of Maine* Judgment, ICJ Rep. 1984, 312, para.157, 338, para.226; Pleadings, Vol.II, 67-68, 93 n.2 [US Memorial], Vol.V, 49 [Reply of Canada].

“It is the land which confers upon the coastal State a right to the waters off its coasts” – *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 133, also: 128, Separate O. Hsu Mo, 154; Pleadings, Vol.I, 532 [Norway’s Counter-Memorial], Vol.II, 659 [UK Reply], Vol.IV, 397-398 [Counsel Waldock, 18 Oct 1951]; *Minquiers and Ecrehos* Pleadings, Vol.II, 200 [Agent Gros, 28 Sep 1953]; *North Sea* Judgment, ICJ Rep. 1969, 31, para.43, 51, paras 95-96, Separate O. Ammoun, 117, 146, Dissent Koretsky, 159-160, 164; Pleadings, Vol.I, 63 [FRG Memorial], 373 [NL Counter-Memorial], Vol.II, 124, 222 [Agent Riphagen, 30 Oct and 7 Nov 1968], 271 [Counsel Sir Humphrey Waldock, 11 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction)* Separate Os Sir Gerald Fitzmaurice, ICJ Rep. 1973, 28 n.9, 72 n.9, (*Merits*) Separate Os de Castro, ICJ Rep. 1974, 98, 225; Pleadings (UK), 63 [Iceland]; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 36, Dissent de Castro, 66; Pleadings, 99 [Counsel O’Connell, 26 Aug 1976], 441 [O’Connell, 16 Oct 1978]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 61, Separate O. de Arechaga, 132; Pleadings, Vol.I, 161 [Tunisia’s Memorial]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 312, 338; *Gulf of Maine* Pleadings, Vol.I, 119, 126, 145 [Canada’s Memorial], Vol.II, 93 n.2 [US Memorial], Vol.III, 210 [Canada’s Counter-Memorial], Vol.IV, 4, 15 n.2, 60, 74-75, 83, 123, 125-126 [US Counter-Memorial], Vol.V, 5, 49, 51-52, 54 [Canada’s Reply], Vol.VI, 39, 40 [2 April 1984, Agent Legault], 255, 268 [11 and 12 April, Counsel Stevenson], Vol.VII, 198 [9 May 1984, Stevenson]; and all subsequent maritime delimitation decisions of the Court and other courts and tribunals, including *Cameroon v. Nigeria* Oral Hearings, CR 98/4 [trans.], 43 [Adviser Bipoun Woum, 6 March 1998]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.185, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 2, 181, Separate O. Kooymans, para.3, Dissent Torres Bernardez, paras 505, 520; Oral Hearings, CR 2000/15, 28 [Counsel Weil, 14 June 2000] <<http://www.icj-cij.org>>.

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See also Historic Bays *infra*; Straits Used for International Navigation – Longstanding International Conventions in Force; Regime of Islands – Sovereignty Over Island Territory *infra*.

Treaties of Friendship, Commerce and Navigation (FCN)

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SS Lotus PCIJ Series A, No.10 (1927) – Dissent Moore, 84; *Legal Status of Eastern Greenland* PCIJ Series A/B, No.53 (1933) – Judgment, 33, 53-54; Pleadings, PCIJ Series C, No.62, 34 [Denmark’s Memorial], 198, 528 [Norway’s Counter-Memorial], No.63, 799-800, 801 [Denmark’s Reply], 1039, 1294 [Norway’s Rejoinder], No.64, 1541 [Annex], No.66, 2951, 2953 [Counsel Rygh, 5 Dec 1932], No.67, 3570 [Counsel Rygh, 3 Feb 1933], 3658 [Rygh, 7 Feb 1933].

Anglo/Norwegian Fisheries ICJ Rep. 1951, 116 – Judgment, 119, 120, 121, 124, 125-126 [noting that although Norway’s 4-mile TS is not the subject of the present dispute, that limit was acknowledged by the UK in the course of the proceedings], 128, 135, 138, Individual O. Alvarez, 147, 150, 152-153, Separate O. Hsu Mo, 156, Dissent Sir Arnold McNair, 159-161, 168-169, 171, 179, Dissent Read, 186-187, 189-190, 192, 196, 198, 202-203; *Anglo/Norwegian Pleadings*, Vol.I, 18, 22-23, 29, 38-37 [UK Memorial], 345-357, 373-374, 393-402, 539 [Norway’s Counter-Memorial], Vol.II, 304, 421-424, 595, 643, 681-683 [UK Reply], Vol.IV, 60 [Agent Sir Eric Beckett, 26 September 1951]. Cf. *id.* Vol.I, 345-368 [Norway’s Counter-Memorial], 394-402, 415-420, 462-463, 465 [UK Reply], Vol.III, 231-278 [Norway’s Rejoinder]; *Fisheries Jurisdiction (Merits)* Separate Os Waldock, ICJ Rep. 1974, 107, 227.

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For reliance on the *Anglo/Norwegian* findings of the Court, see *Libya/Malta* Pleadings, Vol.III, 171-173, 179 [Malta's Reply]; *Gulf of Maine* Pleadings, Vol.III, 213 [Canada's Counter-Memorial].

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Minquiers and Ecrehos ICJ Rep. 1953, 47 – Judgment, 51, 57, 66; Pleadings, Vol.I, 51-52, 54, 56-58, 60, 62, 114-117 [UK Memorial], 555, 588 [UK Reply], Vol.II, 78, 83 [Counsel Fitzmaurice, 19 Sep 1953], 252-256 [Agent Gros, 30 Sep 1953]; *North Sea* Judgment, ICJ Rep. 1969, 18, 34, 37, 45, Separate O. President Bustamante y Rivero, 59-60, 65, Separate O. Ammoun, 108, 124-126, 128, 144, Dissents Koretsky, 159-161, 164-165, 170, Morelli, 203-204, Sorensen, 249-252; *North Sea* Pleadings, Vol.I, 62 [FRG Memorial], 201-202 [Denmark's Counter-Memorial], 354-355 [NL Counter-Memorial], Vol.II, 92-93 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 138 [Agent Riphagen, 31 Oct], 193 [Counsel Shigeru Oda, 5 Nov 1968]; *Fisheries Jurisdiction (Interim Measures)* Dissents Padilla Nervo, ICJ Rep. 1972, 23, 40, (*Jurisdiction*) Judgments, 16-17, 61, Separate Os Fitzmaurice, ICJ Rep. 1973, 25, 29, 69, 73, Dissents Padilla Nervo, 39, 41, 84, 86, (*Merits*) Judgments, ICJ Rep. 1974, 22-23, 25, 191-192, 194, Joint Separate Os, 45-47, 217-219, Separate O. Dillard, 56-59, Separate Os de Castro, 78-94, 97, 225, Separate Os Waldock, 106-115, 119-122, 227, Dissents Onyeama, 165-167, 245; *Fisheries Jurisdiction* Pleadings (UK), 458-461 [Counsel Silkin, 25 March 1974], (FRG), 219-229 [Memorial (Merits)]; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 37, para.89.

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1930 Hague Draft, Annex II: Base Line; 1958 TSC, Article 3; 1982 LOSC, Part II, Article 5:

SS Lotus PCIJ Series A, No.10 (1927) – Dissent Moore, 75; *Eastern Greenland* Pleadings, PCIJ Series C, No.64, 1546 [Annex]; *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 121, 128-129, 137, Separate O. Hsu Mo, 154, Dissent Sir Arnold McNair, 161-163, 168-169, 179, Dissent Read, 186, 203-204; Pleadings, Vol.I, 54-60, 87 [UK Memorial], 399-402 [Norway's Counter-Memorial], Vol.II, 439-440, 452-453, 574 [UK Reply]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 58; Pleadings, Vol.I, 51, 54, 56, 58, 73, 286 [UK Memorial], 555, 556 [UK Reply]; *North Sea* Judgment, ICJ Rep. 1969, 24, para.26, Separate O. President Bustamante y Rivero, 59, Separate O. Ammoun, 143, Dissents Koretsky, 162, 165, Tanaka, 184, Morelli, 203-204; *North Sea* Pleadings, Vol.I, 359 [NL Counter-Memorial], Vol.II, 92-93 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 150 [Agent Jacobsen, 31 Oct], 212 [Request Mosler, 7 Nov], 273 [Waldock, 11 Nov 1968]; *Aegean Sea (Jurisdiction)* Dissent de Castro, ICJ Rep. 1978, 66-67; Pleadings, 142 [Counsel O'Connell, 27 Aug 1976]; *Tunisia/Libya (Intervention)* Judgment, ICJ Rep. 1981, 9, 17, (*Merits*) Judgment, ICJ Rep. 1982, 48, 71, 74-76, 87, 91, 94, para.133 C(2), Separate O. de Arechaga, 135, Dissent Oda, 261-267, (*Revision*) Judgment, ICJ Rep. 1985, 224-225, Separate O. Bastid, 252; *Gulf of Maine* Judgment, ICJ Rep. 1984, 270, 287, 332, 336; Pleadings, Vol.I, 105, 134-137 [Canada's Memorial], Vol.III, 254-255 [Canada's Counter-Memorial], Vol.V, 46 [Canada's Reply]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 48, 57, para.79C, Dissent Oda, 161; *Guinea-Bissau v. Senegal Arbitral Award* Judgment, ICJ Rep. 1991, 57, 74, Separate O. Vice-President Oda, 82; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 608, Dissent Oda, 745; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 78; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 179-180, 184, 216, 245, Joint Dissent Bedjaoui, Ranjeva, Koroma, para.185, Dissent Torres Bernardez, para.515; Oral Hearings, CR 2000/6, 40-41 [Counsel Ian Sinclair, 30 May 2000], CR 2000/9 [trans.], 35 [Counsel Queneudec, 5 June], CR 2000/14, 35-37 [Counsel Reisman, 13 June 2000] <<http://www.icj-cij.org>>.

1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award, paras 133-135, 146, 40 ILM 983 (2001) <<http://www.pca-cpa.org>>.

See also Fisheries, 1882 North Sea Convention, *infra*.

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1982 LOSC, Article 6:

Anglo/Norwegian Fisheries Judgment, ICJ Rep. 1951, 127, Dissent Sir Arnold McNair, 182; Pleadings, Vol.I, 491 [Norway's Counter-Memorial], Vol.II, 511, 660, 761-762 [UK Reply], Vol.III, 377 [Norway's Rejoinder]; *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 302, 315; *Libya/Malta* Pleadings, Vol.II, 129 [Libya's Counter-Memorial], Vol.III, 248 [Malta's Reply]; *New Zealand v. France* Oral Hearings, CR 95/19, 71 [Counsel Lauterpacht, 11 Sep 1995]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/15, 53 [Counsel Weil, 14 June 2000]; *Indonesia/Malaysia* [Regime of Islands – Sovereignty Over Island Territory *infra*]; *Nicaragua v. Honduras* [Equitable Maritime Boundary Delimitation *infra*].

1909 *Norway v. Sweden Grisbadarna* Award [Equitable Maritime Boundary Delimitation *infra*]; 1977 *Anglo/French* Decision [18 ILM 397 (1979)], para.126; 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award, paras 143-145, 40 ILM 983 (2001) <<http://www.pca-cpa.org>>.

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1958 TSC, Articles 4 and 5(2); 1982 LOSC, Articles 7 and 8(2):

1958 TSC, Article 4(1); 1982 LOSC, Article 7(1): *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 139, 143 (*dispositif*); *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 315; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 211-215.

1958 TSC, Article 4(2); 1982 LOSC, Article 7(3) and Article 47(3) – general direction of the coast and link to the land domain: *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 133, 135, 140-142, Separate O. Hsu Mo, 154-155, 156; *North Sea* Pleadings, Vol.II, 92 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 221 [Agent Riphagen, 7 Nov], 272 [Waldock, 11 Nov 1968]; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 138; *Gulf of Maine* Pleadings, Vol.V, 479 [US Reply], Vol.VII, 223 [Counsel Colson, 10 May 1984].

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Award, para.144 <<http://www.pca-cpa.org>>; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 201, 208.

See also Low-Tide Elevations *infra*.

1958 TSC, Article 4(4); 1982 LOSC, Article 7(5) and Article 47(6) – economic interests: *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 133.

See also Equitable Maritime Boundary Delimitation – Economic Factors *infra*.

1958 TSC, Article 4(5); 1982 LOSC, Article 7(6) – another State's TS's cutt off from the HS/EEZ: *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 95 [UK Memorial], 396, 470, 609 [UK Reply]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/45, 28 [Counsel Bowett, 10 June 1991].

1958 TSC, Article 5(2); 1982 LOSC, Article 8(2) – preservation of IP: *Fisheries Jurisdiction* Pleadings (UK), 475 [Counsel Silkin, 25 March 1974]; *Great Belt* Pleadings, 540 [Denmark's Counter-Memorial].

United Kingdom v. Norway Fisheries (Anglo/Norwegian Fisheries) ICJ Rep. 1951, President J. Basdevant – Judgment, 116, Declaration Hackworth, 144, Individual O. Alvarez, 145, Separate O. Hsu Mo, 154, Dissents Sir Arnold McNair, 158, Read, 186; Orders, ICJ Rep. 1949, 233, 1950, 263, 1951, 8; *Anglo/Norwegian* Pleadings, Vol.I, 25-55, 87-101 [UK Memorial], 406-412, 524-547 [Norway's Counter-Memorial], Vol.II, 316-453, 580-606, 681-721 [UK Reply], Vol.III, 162-203, 303-317 [Norway's Rejoinder], Vol.IV, 72-81 [Agent Sir Eric Beckett, 27 Sep 1951].

After the Court upheld the validity in international law of Norway's Royal Decree of 12 July 1935, as amended by a Decree of 10 December 1937, which applied straight baselines to the areas northward of latitude 66°28.8' North, i.e., north of the Arctic circle [*Anglo/Norwegian Fisheries* Pleadings, Vol.I, 14 (text), 199 (basepoints in blue line of the Decree)], a Decree of 18 July 1952 enclosed by 74 straight baselines also the areas situated to the south of this latitude, whereas Decrees of 30 June 1955 and 25 September 1970 applied straight baselines around the Jan Mayen Island and Spitzbergen (Svalbard) Archipelago respectively [*The Law of the Sea – Baselines: National Legislation with Illustrative Maps* 235-246 (UN 1989)].

See also *ILC Yearbook* 1956-II, 267-268; Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 34-38 (Oxford 1999).

On 1927 *The Deutschland* Judgment of the Norwegian Supreme Court, Judge Bonnevie [28 BYIL 123-124 (1951); *Anglo/Norwegian* Pleadings, Vol.I, 162-170], see *Anglo/Norwegian Fisheries* Dissent Sir Arnold McNair, ICJ Rep. 1951, 181-183; Pleadings, Vol.I, 37-41, 44, 48 [UK Memorial], 174, 316-321 [Norway's Counter-Memorial], Vol.II, 190-208, 325-324, 377-380, 599, 732-738 [UK Reply], Vol.III, 150-155 [Norway's Rejoinder], Vol.IV, 69 [Agent Sir Eric Beckett, 26 Sep 1951], 100, 127 [Counsel Sir Frank Soskice, 28 Sep], 334-346

[Agent Arntzen, 13 Oct], 409 [Counsel Waldock, 18 Oct], 436 [Agent Beckett, 19 Oct 1951]; *Tunisia/Libya Pleadings*, Vol.IV, 326 [Libya's Reply].

On 1934 *The St. Just* Judgment of the Norwegian Supreme Court as final authority for application of the straight baselines, see *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 134, 135, Dissents McNair, 181-183, Read, 195, 196, 205; Pleadings, Vol.I, 47-49 [UK Memorial], 173-181 [text of Judgment], 321-323, 543 [Norway's Counter-Memorial], Vol.II, 208-222, 380, 600 [UK Reply], Vol.III, 147, 155 [Norway's Rejoinder], Vol.IV, 149, 454 [Agent Sir Eric Beckett, 1 and 20 Oct 1951].

On British suggestion made after enactment of the Norwegian Royal Decree of 12 July 1935 to refer the dispute to the PCIJ, see *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 124; Pleadings, Vol.I, 52 [UK Memorial].

On the protests of the UK, the Netherlands, Belgium and the FRG against Iceland's Regulations No.56 of 22 April 1950 which were deliberately modelled on the Norwegian system of straight baselines, see *Anglo/Norwegian Fisheries* Pleadings, Vol.III, 317, 384 [Norway's Rejoinder], 631, 700 [text of Regulations], Vol.IV, 37, 79-81 [Agent Sir Eric Beckett, 25 and 27 Sep 1951], 400-404 [Counsel Waldock, 18 Oct 1951], 576-578 [1950 UK Notes], 606-609 [1951 NL Note and Iceland's Reply].

Three months after the delivery of the *Anglo/Norwegian Fisheries* Judgment, Iceland replaced Regulations No.56 by the new Regulations No.21 of 19 March 1952 establishing a 4-mile fishery zone measured from straight baselines where all foreign fishing was prohibited [UN Doc. ST/LEG/SER.B/6, 516 (1957)]. The *UK v. Iceland Fisheries Jurisdiction (Merits)* Judgment, ICJ Rep. 1974, 11, indicated that Regulations No.21 were protested by the United Kingdom (on 2 May and 18 June 1952). See also Separate Os Sir Humphrey Waldock, ICJ Rep. 1974, 107-108, 227-228; *Fisheries Jurisdiction* Pleadings (UK), 271 [Memorial (Merits)], and (FRG), 152 [Memorial (Merits)]. The United Kingdom proposed on 20 January 1953 to submit to the Court the validity of Icelandic straight baselines in the Bay of Foxa, but Iceland did not agree.

Iceland's Regulations No.21 were superseded by the new Regulations No.70 of 30 June as supplemented on 29 August 1958, which provided for a 12-mile exclusive fisheries zone measured from the modified straight baselines [UN Doc. ST/LEG/SER.B/8, 11 (1959)], and which were again protested by the FRG and the United Kingdom on 16 July and 23 August 1958, as well as by France on 11 July and Spain on 1 September 1958. See *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 12, 183-184, Separate Os Waldock, 110-111, 227. On British suggestion, declined by Iceland, to bring the dispute to the ICJ, see *Fisheries Jurisdiction* Pleadings (UK), 129, 153-156 [Memorial (Jurisd)]. Under the UK/Iceland and the FRG/Iceland Exchange of Notes Constituting

Agreements Settling the Fisheries Dispute of 11 March and 19 July 1961 [397 UNTS 275 and 409 UNTS 47], Britain and the FRG ultimately recognized Icelandic baselines, subject to the modification of four specified points. Cf. *Fisheries Jurisdiction (Jurisdiction)* Judgment, ICJ Rep. 1973, 17, Separate Os Fitzmaurice, 29 n.11, 32, 73 n.11, 76, (*Merits*) Judgments, ICJ Rep. 1974, 12-13, 184-185, Separate Os Waldock, 113-114, 227; Pleadings (UK), 171-172 [Iceland's Memorandum of 28 Feb 1961].

North Sea Judgment, ICJ Rep. 1969, 21, para.15, 52, para.98, Separate O. President Bustamante y Rivero, 59, Separate O. Ammoun, 145, 148, 150-151, 152; *North Sea* Pleadings, Vol.I, 39 [FRG Memorial], Vol.II, 125, 138 [Agent Riphagen, 30 and 31 Oct], 193-195 [Counsel Oda, 5 Nov], 271-272 [Counsel Sir Humphrey Waldock, 11 Nov 1968]; *Fisheries Jurisdiction (Merits)* Separate Os Waldock, ICJ Rep. 1974, 107-114, 227; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 37, para.89; Pleadings, 89, 142 [Counsel O'Connell, 25 and 27 Aug 1976]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 74-76, Dissents Oda, 210, Evensen, 285, 301, 314-317, (*Revision*) Judgment, ICJ Rep. 1985, 225; *Gulf of Maine* Judgment, ICJ Rep. 1984, 309; Pleadings, Vol.I, 166-167, 200-201 [Canada's Memorial], Vol.II, 69, 109 [US Memorial], Vol.III, 50 [Canada's Counter-Memorial], Vol.IV, 74-75 [US Counter-Memorial], Vol.V, 55 [Canada's Reply], 383-384, 447, 487, 513, 521 [US Reply], Vol.VI, 382, 384 [Counsel Feldman, 16 April 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 22; Pleadings, Vol.I, 128 [Libya's Memorial], Vol.II, 363 [Malta's Counter-Memorial], Vol.III, 48 [Libya's Reply], 247 [Malta's Reply]; *Libya/Chad Territorial Dispute* Separate O. Ajibola, ICJ Rep. 1994, 79-80; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 593, Dissent Oda, 745, 755; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 201, 208, 210-215, 223, Dissent Torres Bernardez, paras 479, 507; Oral Hearings, CR 2000/9 [trans.], 35 [Counsel Queneudec, 5 June 2000], CR 2000/18, 22 [Counsel Sinclair, 21 June], CR 2000/25, 12-14 [Counsel Weil, 29 June 2000] <<http://www.icj-cij.org>>.

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 50-51, 71; 1999 *Eritrea/Yemen (Phase II)* Award, paras 50, 140-145, 151, Annex II: Eritrea's Answer to Judge Schwebel's Question <<http://www.pca-cpa.org>>.

See also Regime of Islands *infra*.

Mouth of Rivers

1930 Hague Draft, Annex II, Appendix A: US Proposal, Appendix B: French Proposal; 1958 TSC, Article 13; 1982 LOSC, Article 9:

Honduras v. Nicaragua Arbitral Award of 23 December 1906 Judgment, ICJ Rep. 1960, 202-203, 212, 216-217; *Tunisia v. Libya (Revision)* Judgment, ICJ

Rep. 1985, 224-225, Separate O. Oda, 243-245; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 543-553, 615, para.430, Dissent Oda, 759; Oral Hearings, C 4/CR 91/44, 26 [Counsel Lauterpacht, 4 June 1991], CR 91/46, 41-43 [11 June 1991]; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 283, 302, Separate O. Oda, 335-336; *Nicaragua v. Honduras Maritime Delimitation* case <<http://www.icj-cij.org>>.

1906 *Honduras/Nicaragua Boundary Question* and 1914 *Costa Rica/Panama Boundary Awards* – see Equitable Maritime Boundary Delimitation *infra*; 1910 *USA/Venezuela Orinoco Steamship Company Award* – see Settlement of Disputes – Interpretation or Application *infra*; 1985 *Guinea/Guinea-Bissau Award*, paras 73, 97 [25 ILM 285, 292 (1986)].

Bays

1930 Hague Draft, Annex II: Base Line (10-mile closing line); 1958 TSC, Article 7 (24-mile line); 1982 LOSC, Article 10 (24-mile line):

Relevant Jurisprudence

Anglo/Norwegian Fisheries ICJ Rep. 1951, 116 – Judgment, 127, 129, 130-131, 132, 133, 139, 141, Individual O. Alvarez, 151, Separate O. Hsu Mo, 155-156, Dissent Sir Arnold McNair, 163-166, 168, Dissent Read, 188; *North Sea Pleadings*, Vol.II, 222 [Agent Riphagen, 7 Nov 1968], 246, 260-261, 264 [Reply by Counsel Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Merits)* Joint Separate Os, ICJ Rep. 1974, 51, 223; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 74; *Gulf of Maine* Judgment, ICJ Rep. 1984, 268-271, 322-325, 336, 354, Separate O. Schwebel, 354-359 [incl. Map]; *Pleadings*, Vol.III, 45-47, 247 [Canada's Counter-Memorial], Vol.IV, 16, 127-130 [US Counter-Memorial], Vol.V, 50-51, 55, 71-72, 128, 143-147 [Canada's Reply], 443-445, 448-451, 484-486, 508 [US Reply], Vol.VI, 49 [Agent Legault, 3 April 1984], 74-86 [Deputy Agent Hankey, 4 April], 206, 213-219 [Counsel Malintoppi, 10 April], 293-295 [Counsel Colson, 12 April], 310-315 [Colson, 13 April], 328-336 [Counsel Feldman, 13 April], 464 [Question 2 of Judge Schwebel, 19 April], Vol.VII, 126-134 [Malintoppi's Reply to Schwebel, 5 May, with err. at 377], 215, 234-235 [Colson's Reply, 10 May 1984], Vol.VIII, 55 [Fig.13], 76 [Fig.51], 117 [Fig.36], 118 [Fig.39], 256 [Fig.171]; *Libya/Malta (Merits)* Joint Separate O., ICJ Rep. 1985, 92; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 588, 593, Dissent Oda, 735-747.

See also *ILC Yearbook* 1956-II, 269 (para.1); Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 39 (Oxford 1999).

On USSR closure of the Peter the Great Bay in 1957, see *Nuclear Tests Pleadings* (Australia), 340 [Memorial].

An unarticulated premise of Libya in the *Libya/Malta Continental Shelf* case [see Equitable Maritime Boundary Delimitation *infra*] was to obtain recognition for its some 300 miles long closing straight line drawn in the Gulf of Sirt (Sidra/Surt), protested by the USA in 1974, 1979 and 1985 [Libya's Information of 19 October 1973, *The Law of the Sea: National Legislation on the Territorial Sea* 198 (UN 1995); *UN LOS Bull.* 40 (1985 No.6); *US Responses to Excessive National Claims, Limits in the Seas* No.112, 11-13 (1992)]. For references to Gulf of Sirt, see UN Doc. S/PV.2246th Meeting-4 September 1980, para.33 (Malta); *Tunisia/Libya (Intervention)* Judgment, ICJ Rep. 1981, 9, 17, Separate O. Schwebel, 37, (*Merits*) Judgment, ICJ Rep. 1982, 34, 53, Dissent Evensen, 316; Pleadings, Vol.II, 48 [Tunisia's Counter-Memorial], Vol.III, 447 [Counsel Lauterpacht, 23 March 1981]; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 11, Separate O. de Arechaga, 65, (*Merits*) Judgment, ICJ Rep. 1985, 22; Pleadings, Vol.I, 167 [Libya's Memorial], Vol.II, 44, 56 [Libya's Counter-Memorial], Vol.IV, 157 [Counsel Bowett, 13 Dec 1984], Vol.V, 42 [Fig.11].

On 1977/1978 *Anglo/French* Decisions and 1988 *Taba* Award, see Equitable Maritime Boundary Delimitation *infra*.

On 1992 *Canada/France* Award [Equitable Maritime Boundary Delimitation *infra*], para.29, see *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/9 [trans.], 40-41 [Counsel Queneudec, 5 June 2000].

10-Mile Closing Line

Eastern Greenland Pleadings, PCIJ Series C, No.62, 34 [Memorial of Denmark], No.63, 1295 [Rejoinder of Norway], No.64, 1541 [Annex]; *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 120, 121-122, 131 [stating that although the 10-mile rule was applied in the legislative and treaty practice of states and in certain arbitral decisions (without specifying the *Washington* and the *North Atlantic Coast Fisheries* Awards), it “has not acquired the authority of a general rule of international law”], 136, Individual O. Alvarez, 150, Dissents McNair, 163-165, Read, 188; *Anglo/Norwegian* Pleadings (invoking extensive jurisprudence of arbitral tribunals and national courts), Vol.I, 24-25, 31, 60-71, 83-84, 86, 89-93 [UK Memorial], 422-451 [Norway's Counter-Memorial], Vol.II, 444-451, 467-503, 576-577, 580-581, 585, 596, 610-640 [UK Reply], Vol.III, 317-361, 436, 633-647 [Norway's Rejoinder], Vol.IV, 81-90 [Agent Sir Eric Beckett, 27 Sep 1951], 265-279, 507 [Counsel Bourquin, 10, 11 and 26 Oct 1951], 402-405, 411-412 [Counsel Waldock, 18 Oct 1951]; *Minquiers and Ecrehos* Pleadings, Vol.I, 54 [UK Memorial].

For reliance on the *Anglo/Norwegian Fisheries* findings of the Court, see *Minquiers and Ecrehos* Pleadings, Vol.II, 200 [Agent Gros, 28 Sep 1953]; *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 151, Dissent Sorensen, 247; Pleadings, Vol.I, 60 [FRG Memorial], 400 [FRG Reply], 509 [Common Rejoinder of D/NL]; *Fisheries Jurisdiction (Merits)* Separate O. Dillard, ICJ Rep. 1974, 58; Pleadings (UK), 322, 350-351 [Memorial (Merits)], 468-469 [Counsel Silkin, 25 March 1974]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 588.

On 1853 *UK/USA The Washington (The Julia; Bay of Fundy)* Award [6 AJIL 434 (1912); No.47/Stuyt], see *Anglo/Norwegian Fisheries* Dissent McNair, ICJ Rep. 1951, 165, 168; Pleadings, Vol.I, 61-62 [UK Memorial], 429-430, 450, 476-477 [Norway's Counter-Memorial], Vol.II, 475-476, 525-526 [UK Reply], Vol.IV, 86-87 [Agent Sir Eric Beckett, 27 Sep 1951]; *Gulf of Maine* Pleadings, Vol.I, 187-189 [Canada's Memorial], Vol.VI, 218-219 [Counsel Malintoppi, 10 April 1984], Vol.VII 215 [Counsel Colson, 10 May 1984].

On 1910 *UK/USA North Atlantic Coast Fisheries* Award [RIAA XI, 167; No.291/Stuyt], see *Anglo/Norwegian Fisheries* Dissent Read, ICJ Rep. 1951, 188; Pleadings, Vol.I, 63-64, 67, 69, 90 [UK Memorial], 423-424, 427-437, 443, 444, 450 [Norway's Counter-Memorial], Vol.II, 263-278 (excerpts of *North Atlantic Fisheries* arguments of Britain), 468, 471-473, 475-477, 479-488, 576, 617-619, 622, 629 [UK Reply], Vol.III, 318, 322-328, 341, 356 [Norway's Rejoinder], Vol.IV, 82-85, 87 [Agent Sir Eric Beckett, 27 Sep 1951], 268, 272-275, 507 [Counsel Bourquin, 10, 11 and 26 Oct 1951]; *Gulf of Maine* Pleadings, Vol.V, 509 [US Reply]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 591-592, Dissent Oda, 736, 738, 747, 750-751.

On 1882 *North Sea Fisheries* Convention, see *Fisheries infra*.

Historic Bays

1958 TSC, Article 7(6); 1982 LOSC, Article 10(6) and Article 298(1)(a):

Eastern Greenland Pleadings, PCIJ Series C, No.63, 766 [Reply of Denmark], 1218 [Rejoinder of Norway]; *Corfu Channel (Merits)* Dissent Azevedo, ICJ Rep. 1949, 103; *Anglo/Norwegian Fisheries* Dissents McNair, ICJ Reports 1951, 164, Read, 188; Pleadings, Vol.I, 92 [UK Memorial], 548-556, 568-571 [Norway's Counter-Memorial], Vol.II, 445-446, 456, 566, 644 [UK Reply], Vol.III, 336 [Norway's Rejoinder]; *Aegean Sea (Jurisdiction)* Dissent de Castro, ICJ Rep. 1978, 66-67; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 73-74, Dissents Oda, 209-210, Evensen, 316-317; Pleadings, Vol.I, 74 [Tunisia's Memorial], 505-506 [Libya's Memorial], Vol.IV, 113-124 [Libya's Reply]; *Gulf of Maine* Separate O. Schwebel, ICJ Rep. 1984, 354; Pleadings, Vol.V, 484, 508 [US Reply]; *Gulf of Fonseca* case – see *Equitable Maritime Boundary Delimitation*

infra; *Qatar v. Bahrain (Merits)* Dissent Torres Bernardez, para.470, ICJ Rep. 2001 (in press).

On 1877 *Direct United States Cable Co. v. Anglo-American Telegraph Co.* (The Conception Bay) Judgment, see the end of this section *infra*.

On 1885 *Stetson v. USA (The Alleganean)* Judgment, see Straits Used for International Navigation *infra*.

On 1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment, see Equitable Maritime Boundary Delimitation *infra*.

On 1951 Egypt's Royal Decree, see TS Breadth and Outer Limit *supra*.

Ports and Roadsteads

1930 Hague Draft, Annex II, Appendix B: Compromisory Proposal of the French Delegation, 250-251; 1958 TSC, Articles 8-9; 1982 LOSC, Articles 11-12:

Anglo/Norwegian Fisheries Pleadings, Vol.I, 416, 452 [Norway's Counter-Memorial], Vol.II, 455, 505 [UK Reply]; 1981 *Dubai/Sharjah* Award [91 ILM 660-663]; *Great Belt* Pleadings, 250-251 [Finland's Memorial]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 755.

Low-Tide Elevations

1930 Hague Draft, Annex II: Base Line; 1958 TSC, Article 11; 1982 LOSC, Article 13:

Anglo/Norwegian Fisheries ICJ Rep. 1951, 116 – Judgment, 120, 121, 128; Pleadings, Vol.I, 75-78, 84 [UK Memorial], Vol.II, 510-511 [UK Reply], Vol.IV, 91 [Agent Sir Eric Beckett, 27 Sep 1951]; *Minquiers and Ecrehos* Judgment, ICJ Rep. 1953, 53; *North Sea* Pleadings, Vol.I, 211-212 [Denmark's Counter-Memorial], 364-365 [NL Counter-Memorial], Vol.II, 72-73 [Agent Riphagen, 28 Oct 1968], 85 [Counsel Sir Humphrey Waldock], 190 [Agent Jaenicke, 4 Nov, referring to Hohe Riff], 277 [Waldock, 11 Nove 1968]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 62-64, 88-89, Separate O. de Arechaga, 135, 138-139, Dissents Oda, 266-267, 269, 271, Evensen, 285, 299-304; *Gulf of Maine* Judgment, ICJ Rep. 1984, 287, 329, 332; Pleadings, Vol.V, 485 n.3 [US Reply]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 570, para.356; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 33-34, 61, 179, 187-209, 218, 220, 222, 247-248, Separate Os Oda, paras 5-9, 20, Parra-Aranguren, para.7, Dissent Torres Bernardez, paras 474, 490, 507, 509, 513, 518, 522-533, 550-551; Oral Hearings, CR 2000/9 [trans.], 33, 35, 41-48 [Counsel Queneudec, 5 June 2000], CR 2000/14, 38-45, 49 [Counsel Reisman, 13 June], CR 2000/15, 12 [14 June], 51-52 [Counsel Weil], CR 2000/16, 41, 47 [Reisman, 15 June], CR

2000/25, 6-10 [29 June 2000], 12-14 [Weil]; *Nicaragua v. Honduras* and *Nicaragua v. Colombia* cases <<http://www.icj-cij.org>>.

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 125-127, 136-138, 1978 Decision [*id.* 462]; *Canada/France* Award, para.69 [31 ILM 1170 (1992)]; 1998 *Eritrea/Yemen Territorial Sovereignty (Phase I)* Award, paras 30, 75, 475, 482, 527 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

See also Straight Baselines *supra*.

The Right and Meaning of Innocent Passage

1930 Hague Draft, Articles 3-6; 1958 TSC, Articles 5(2) and 14-17; 1982 LOSC, Part II, Articles 8(2) and 17-21, Part IV, Article 52, Part XII, Article 211(3)-(4):

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Judgment, 28, 30-31, 35, Dissents Krylov, 75, Azevedo, 108-109, Ecer 129-130; *Corfu* Pleadings, Vol.I, 42-46 [UK Memorial], Vol.II, 112-115 [Albania's Counter-Memorial], 259-260 [UK Reply], Vol.III, 290-293 [Agent Sir Eric Beckett, 12 Nov 1948], Vol.IV, 553-554 [Beckett, 18 Jan 1949], 672-675 [Counsel Cot, 22 Jan 1949]; *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 137, 142, Individual O. Alvarez, 150, 153, Dissents Sir Arnold McNair, 171-178, Read, 190-192, 197-198; *Anglo/Norwegian* Pleadings, Vol.I, 361, 476 [Norway's Counter-Memorial], Vol.II, 412 [UK Reply]; *North Sea* Dissent Vice-President Koretsky, ICJ Rep. 1969, 161; Pleadings, Vol.II, 193 [Counsel Shigeru Oda, 5 Nov 1968]; *Fisheries Jurisdiction (Interim Measures)* Orders, ICJ Rep. 1972, 13, 31, (*Jurisdiction*) Separate Os Fitzmaurice, ICJ Rep. 1973, 28 n.8, 72 n.8; *Gulf of Maine* Pleadings, Vol.V, 514 [US Reply], Vol.VII, 199-200 [Counsel Stevenson, 9 May 1984]; *Libya/Malta* Pleadings, Vol.IV, 137 [Counsel Lucchini, 12 Dec 1984]; *Nicaragua v. USA (Provisional Measures)* Order, ICJ Rep. 1984, 170, para.1(b) and (e), 181, para.28, 187, para.41(B)(1), Dissent Schwebel, 190, 199, (*Jurisdiction and Admissibility*) Judgment, ICJ Rep. 1984, 424, para.73, *as reaffirmed* by (*Merits*) Judgment, ICJ Rep. 1986, 93, para.174, also *id.* 46-53, paras 76-92, and 111-112, paras 213-214, Dissent Schwebel, 259; *Great Belt* Pleadings, 146-154 [Counsel Jimenez de Arechaga, 2 July 1991], 155-156 [Counsel Fergo], 193-194 [Counsel Treves, 4 July 1991], 333-336 [Finland's Memorial], 613-619 [Denmark's Counter-Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 379, 590, 592-593, 605, 616, para.432(1), Dissent Oda, 742, 745, 760; Oral Hearings, C 4/CR 91/43, 35 [Agent Arguello, 7 June 1991], CR 91/45, 23 [Counsel Bowett, 10 June 1991]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 223, 252(2)(b), Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 169-180, Declaration Herczegh, Separate O. Parra-Aranguren, paras 2-3, Dissent Torres Bernardez, paras 462, 543-545, 550; Oral Hearings, CR

2000/14, 36 [Counsel Reisman, 13 June 2000], CR 2000/16, 49-50 [15 June 2000] <<http://www.icj-cij.org>>.

See also *ILC Yearbook 1956-II*, 273.

1993 *UN Iraq/Kuwait Boundary Demarcation Report*, paras 96-97 [32 ILM 1448 (1993)]; 1999 *Eritrea/Yemen (Phase II) Award*, paras 107-111 <<http://www.pca-cpa.org>>; *M/V Saiga Separate O. Laing* [38 ILM 1323 (1999)], paras 49-50 <<http://www.un.org/Depts/los/>>.

Innocent Passage of Warships

1930 Hague Draft, Articles 3 and 12-13; 1958 TSC, Articles 14-17 and 23; 1982 LOSC, Articles 17-26 and 29-32:

SS Wimbledon Pleadings, PCIJ Series C, No.3-Additional Volume, 154 [Rejoinder of Germany]; *Polish War Vessels* Pleadings, PCIJ Series C, No.55, 136 [Report Naval Subcommittee], 151 [LN Council], 173 [Memorial of Poland]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 12, 14, 19, 27-31, 33-34, Individual O. Alvarez, 41, 46-47, Dissents Winiarski, 55-56, Badawi Pascha, 65-66, Krylov, 73-75, Azevedo, 98, 99-106, Ecer, 121, 130; *Corfu Pleadings*, Vol.I, 29-30, 43-47 [UK Memorial], Vol.II, 112-115, 128-138, 142-143 [Albania's Counter-Memorial], 256-257, 285-286, 288-295, 297 [UK Reply], 355-357 [Albania's Rejoinder], Vol.III, 267-288 [Agent Sir Eric Beckett, 11 Nov 1948], 376-405 [Counsel Cot, 18 Nov 1948], Vol.IV, 542-546 [Beckett, 18 Jan 1949], 669-689 [Counsel Cot, 22 January 1949]; *Anglo-Norwegian Fisheries* Dissent Sir Arnold McNair, ICJ Rep. 1951, 162-163; *Gulf of Maine Pleadings*, Vol.VII, 199 [Counsel Stevenson, 9 May 1984]; *Great Belt Pleadings*, 149 [Counsel de Arechaga, 2 July 1991], 250-252, 327-329, 331 [Finland's Memorial], 576 [Denmark's Counter-Memorial]; *Qatar v. Bahrain (Merits)* Separate O. Oda, para.19, ICJ Rep. 2001 (in press).

See also *ILC Yearbook 1956-II*, 277 (paras 3-4); USA/USSR Wyoming Joint Statement on Uniform Interpretation of Rules of International Law Governing Innocent Passage of 23 September 1989, 28 ILM 1444 (1989).

For reliance on Elihu Root's aphorism (amounting to an unconsidered *obiter dictum*) from his oral argument in the *UK/USA North Atlantic Coast Fisheries* Proceedings that, "Warships may not pass without consent into this zone [territorial waters], because they threaten; merchantmen may pass and repass because they do not threaten" [Vol.XI, 2007 (1912)], see *Corfu Channel (Merits)* Dissents Krylov, ICJ Rep. 1949, 74, Azevedo, 101; Pleadings, Vol.II, 137 [Albania's Counter-Memorial], 293 [UK Reply], Vol.III, 273-5 and 276 [Agent Sir Eric Beckett, 11 Nov 1948], 377, 382 and 386 [Counsel Cot, 18 Nov 1948], Vol.IV, 543 and 553 [Agent Beckett, 18 Jan 1949], 673 [Counsel Cot, 22 Jan 1949].

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 161-162, 175-176, 188.

Sea Lanes and Traffic Separation Schemes

1982 LOSC, Article 22:

North Sea Pleadings, Vol.II, 139 [Agent Riphagen, 31 Oct 1968]; *Great Belt* Pleadings, 336 [Finland's Memorial], 493, 608, 616, 623 [Denmark's Counter-Memorial].

See also Straits Used for International Navigation – Safety Passage Regulations *infra*.

Criminal Jurisdiction

1930 Hague Draft, Article 8; 1958 TSC, Article 19; 1982 LOSC, Article 27:

SS Lotus PCIJ Series A, No.10 (1927) – Dissent Moore, 74-78, 87-88; *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 417-419 [UK Reply].

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], para.15.

Maintenance of Navigational Aids and Territorial Sovereignty

For reliance on the holding of the 1909 *Norway v. Sweden Grisbadarna Maritime Frontier* Award [RIAA XI, 155; 4 AJIL 186, 226 (1910); No.288/Stuyt] that the placing of beacons and navigational aids was not sufficient evidence substantiating Swedish title based on the use of the disputed area for fisheries, see *Eastern Greenland* Pleadings, PCIJ Series C, No.63, 817-818 [Reply of Denmark], 1314-1315 [Rejoinder of Norway]; *Minquiers and Ecrehos* Judgment, ICJ Rep. 1953, 66, 69, 70, 71 (rejecting validity of France's title to the Minquiers on this basis); *Minquiers and Ecrehos* Pleadings, Vol.I, 64-66, 69, 73, 112-113, 122-123, 272-285, 296, 332 [UK Memorial], 554-558 [UK Reply], Vol.II, 27 [Counsel Heald, 17 Sep 1953], 177-178, 184 [Counsel Harrison, 24 Sep], 274-275 [Agent Gros, 30 Sep], 339-343 [Harrison, 5 Oct], 406 [Gros, 8 Oct 1953], 436-450; *Antarctica* Pleadings, 12 [UK Application]; *Gulf of Maine* Pleadings, Vol.III, 225-226 [Canada's Counter-Memorial], Vol.IV, 76 [US Counter-Memorial], Vol.VI, 137 [Counsel Bowett, 5 April 1984], 352 [Counsel Rashkov, 16 April 1984]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/33, 80 [Counsel Highet, 29 May 1991].

For reversal of the *Minquiers and Ecrehos* holding, see *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 196-198, asserting that the construction of navigational aids “can be legally relevant in the case of very small islands”, and *id.*, paras 104, 128, 155-156, 159, 162, Separate Os Parra-

Aranguren, para.6, Kooymans, para.88, Dissent Torres Bernardez, paras 361, 403; Oral Hearings, CR 2000/5 [trans.], 33-34 [Counsel Salmon, 29 May 2000], CR 2000/6, 38 [Counsel Sinclair, 30 May], CR 2000/8, 38 [5 June], CR 2000/9 [trans.], 50, 51-52 [Counsel Queneudec], CR 2000/10, 48-49 [6 June], CR 2000/14, 48 [Counsel Reisman, 13 June], CR 2000/15, 13-14 [14 June 2000] <<http://www.icj-cij.org>>.

1998 *Eritrea/Yemen Territorial Sovereignty and Scope of the Dispute (Phase I)* Award [40 ILM 900 (2001)], paras 20, 43, 72, 112, 174-175, 200-238, 237, 282-283, 327-328, 332, 334-335, 341-345, 478, 483, 485, 491-492, 510, 513-514, 516 <<http://www.pca-cpa.org>>.

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On 1793 *The Grange (The Embuscade; Delaware Bay)* Opinion of the US Attorney General Randolph, see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 550-551 [Norway's Counter-Memorial], Vol.II, 610-611 [UK Reply]; *Tunisia/Libya* Pleadings, Vol.IV, 330 [Libya's Reply]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 737.

On 1800/1 *Twee Gebroeders (The Espiegle and four Dutch vessels)* [3 C. Rob. 162 & 336; 165 E.R. 422 & 485; Nos 1-2/Simmonds], see *Anglo/Norwegian Fisheries* Dissent Sir Arnold McNair, ICJ Rep. 1951, 183-184; Pleadings, Vol.I, 346 [Norway's Counter-Memorial].

On 1804 *Church v. Hubbard (The Aurora)* [6 US (2 Cranch) 187; 20 AJIL 115 (1926); No.4/Simmonds], see *Gulf of Maine* Pleadings, Vol.V, 649 n.7, 650-651 [US Reply]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.13 n.8 <<http://www.itlos.org>>.

On 1805 *The Anna*, see Regime of Islands *infra*.

On 1812 *Schooner Exchange (The Balaou) v. McFaddon* Judgment [11 US (7 Cranch) 116; 3 AJIL 227 (1909); No.10/Simmonds], see *SS Lotus* Dissent Moore, PCIJ Series A, No.10 (1927), 68.

On 1859 *R. v. Cunningham (The Gleaner; Bristol Channel)* Judgment [Bell C.C.72; 169 E.R. 1171; No.29/Simmonds], see *Anglo/Norwegian Fisheries* Pleadings Vol.I, 65, 91 [UK Memorial], 430-431, 442, 551-552 [Norway's Counter-Memorial], Vol.II, 477, 491-492, 493, 612 [UK Reply], Vol.III, 448 [Norway's Rejoinder]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 737.

On 1868 *Les Quatre-Frères*, see *Anglo/Norwegian Fisheries* Dissent McNair, ICJ Rep. 1951, 175; Pleadings, Vol.I, 257-258 [Norway's Counter-Memorial], Vol.II, 53 [texts] 331 [UK Reply], Vol.III, 470, 481-482 [Norway's Rejoinder], Vol.IV, 138 [Counsel Soskice, 29 Sep 1951], 303 [Counsel Bourquin, 11 Oct 1951], 437 [Agent Sir Eric Beckett, 19 Oct 1951]; *Tunisia/Libya* Pleadings, Vol.IV, 325 [Libya's Reply].

On the 1876 *R. v. Keyn (The Franconia, The Strathclyde)* Judgment of Lord Chief Justice Cockburn [L.R. 2 Ex.D. 63; 13 Cox C.C. 403; No.37/Simmonds;

and the 1877 *Harris v. Owners of the Steamship Franconia*, 2 C.P.D. 173; No.38/Simmonds], see *SS Lotus* PCIJ Series A, No.10 (1927) – Judgment, 28, Dissents Weiss, 47-48, Lord Finlay, 53-54, Moore, 73-76, 80, 87-88, Altamira, 97; *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 58-63, 66, 74 [Agent Basdevant, 2 and 3 Aug 1927], 126-129 [Agent Bey, 8 Aug], 158, 161-162, 163-164 [Basdevant, 9 Aug], 168 [Bey, 10 Aug 1927], 201, 251, 254, 263 [France’s Memorial], 315 [Turkey’s Counter-Memorial], 325 [Observations of Diena]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 91-92 [UK Memorial], Vol.II, 270, 417 [UK Reply], Vol.III, 299 [Norway’s Rejoinder]; *IMCO* Pleadings, 45 [Liberia]; *Fisheries Jurisdiction* Pleadings (UK), 323 [Memorial (Merits)].

See also High Seas, Status of Ships/Criminal Jurisdiction *infra*.

On 1877 *Direct United States Cable Co. v. Anglo-American Telegraph Co.* (The Conception Bay) Judgment of Justice Lord Blackburn [2 App. Cas. 394; 46 L.J.P. 71; No.39/Simmonds], see *Anglo/Norwegian Fisheries* Dissent Sir Arnold McNair, ICJ Reports 1951, 164; Pleadings, Vol.I, 430-431, 442, 444, 552 [Norway’s Counter-Memorial], Vol.II, 477, 478, 492, 612-615, 616, 617, 618, 622, [UK Reply], Vol.III, 446-447, 456 [Norway’s Rejoinder]; *Tunisia/Libya* Pleadings, Vol.IV, 327-328, 330, 331 [Libya’s Reply]; *Gulf of Maine* Pleadings, Vol.V, 508 [US Reply]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 737.

On 1891 *Manchester v. Commonwealth* Judgment [139 US 240; 1890 *Commonwealth v. Manchester*, 152 Mass. 230; No.45/Simmonds], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 357 [Norway’s Counter-Memorial]; *Tunisia/Libya* Pleadings, Vol.IV, 331 [Libya’s Reply].

On 1893 *UK/USA Behring Sea Fur Seal Award* [1 AJIL 742 (1907); 6 AJIL 233, and Supp. 72, 162 (1912); 37 AJIL 562 (1943); No.170/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 269-270, 352 [Norway’s Counter-Memorial], Vol.II, 79-80, Vol.III, 479, 485-486 [Norway’s Rejoinder].

See also Fisheries *infra*.

On 1897 *UK/Netherlands The Costa Rica Packet* Award of Frederic Martens [No.188/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 346 [UK Memorial].

See also High Seas, Status of Ships/Criminal Jurisdiction *infra*.

On 1903 *UK/USA Alaska Boundary Award* [RIAA XV, 481; No.251/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 431-432, 554 [Norway’s Counter-Memorial], Vol.II, 477, 478-479, 617 [UK Reply].

See also Equitable Maritime Boundary Delimitation and Regime of Islands *infra*.

On 1904 *Annakumar Pillai v. Muthupayal* Judgment of the Supreme Court of Madras [1 L.R. 27 Mad.551; *Anglo/Norwegian* Pleadings, Vol.III, 695; *Tunisia/Libya* Pleadings, Vol.II, 488], see *Anglo/Norwegian Fisheries* Pleadings, Vol.III, 254-255, 448, 456 [Norway’s Rejoinder], Vol.IV, 123 [Counsel Sir

Franklin Soskice, 29 Sep 1951]; *Tunisia/Libya Pleadings*, Vol.II, 211 n.2 [Libya's Counter-Memorial], Vol.IV, 335 [Libya's Reply].

On 1906 *Mortensen v. Peters (The Niobe; Moray Firth)* Judgment, see Fisheries *infra*.

On 1909 *Norway v. Sweden Grisdadarna Maritime Frontier Award*, see Equitable Maritime Boundary Delimitation *infra*.

On 1910 *UK/USA North Atlantic Coast Fisheries Award*, see Fisheries *infra*. See also Bays *supra*, and Regime of Islands, and Good Faith *infra*.

On 1914 *Attorney-General for British Columbia v. Attorney-General for Canada* Judgment [A.C. 153/No.74/Simmonds], see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 492-493 [UK Reply].

On 1918 *The Loekken (The Calliope)* Judgment of Sir Samuel Evans [34 T.L.R. 594; No.81/Simmonds], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 441 [Norway's Counter-Memorial], Vol.II, 114-116 489, 765-772 (text of Judgment) [UK Reply].

On 1927 *The Fagerness (The Cornish Coast; Bristol Channel)* Judgment of Lord Justice Bankes [P. 311; 9 BYIL 120 (1928)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 64-65, 92 [UK Memorial], 442-443 [Norway's Counter-Memorial], Vol.II, 491-493 [UK Reply], Vol.III, 338-342 [Norway's Rejoinder], Vol.IV, 267, 276-277 [Counsel Bourquin, 10 and 11 Oct 1951]; *Tunisia/Libya Pleadings*, Vol.IV, 337-338 [Libya's Reply].

On 1927 *Ocean Industries, Inc. v. Green et al. (Monterey Bay)* Judgment [200 Cal. 235, 252 Pac. 722], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 424 [Norway's Counter-Memorial], Vol.II, 469 [UK Reply], Vol.III, 337, 356, 358, 449 [Norway's Rejoinder], 742-744 [text of Judgment].

On 1927 *The Heinrich-Augustin (The Svensksund; Laholm Bay)* Judgment of the Swedish Supreme Court [24 AJIL 776-83 (1930); 26 AJIL 59, 63 (1932); Case No.90, upheld by Case No.60 1931/2], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 441-442 [Norway's Counter-Memorial], Vol.II, 490-491 [UK Reply], 753, Vol.III, 321, 343 [Norway's Rejoinder]; *Tunisia/Libya Pleadings*, Vol.IV, 328 [Libya's Reply].

On 1935 *US v. Carillo (San Pedro Bay)* Judgment, see *Anglo/Norwegian Fisheries Pleadings*, Vol.III, 334 n.1, 337, 356, 357, 449 [Norway's Rejoinder], 744-745 [text of Judgment], Vol.IV, 85-86, 88-89 [Agent Sir Eric Beckett, 27 Sep 1951].

On 1939 *The People v. Stralla and Adams (Santa Monica Bay)* Judgment [34 AJIL 143 (1940)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.III, 357, 457 [Norway's Rejoinder], 745-747 [text of Judgment], Vol.IV, 85 [Agent Sir Eric Beckett, 27 Sep 1951].

On 1947 *US v. California* Judgment [332 US 19; 42 AJIL 209 (1948)], reaffirmed by the 1950 *US v. Texas* Judgment [70 S.Ct. 918; 339 US 707; 44

AJIL 770 (1950)], see *Anglo/Norwegian Fisheries* Dissent McNair, ICJ Rep. 1951, 160; Pleadings, Vol.II, 536 [UK Reply]; *Gulf of Maine* Pleadings, Vol.IV, 106 n.3 [US Counter-Memorial]; 2001 *Newfoundland and Labrador/Nova Scotia Limits of Their Offshore Areas (Phase I)* Award, para.3.5 <<http://www.bissettmatheson.com/arbitration/>>.

On 1967 *Reference Re Ownership and Jurisdiction Over Offshore Mineral Rights of British Columbia* Judgment [65 DLR (2d) 353], see *Aegean Sea* Pleadings, 258-259 n.1 [Greece's Memorial (Jurisd.)]; 2001 *Newfoundland and Labrador/Nova Scotia Limits of Their Offshore Areas (Phase I)* Award, paras 5.1 n.71, 5.8 n.73, and 5.9 <<http://www.bissettmatheson.com/arbitration/>>.

On 1968 *Post Office v. Estuary Radio* (Thames Estuary) Judgment [2 Q.B. 740], see *Tunisia/Libya* Pleadings, Vol.II, 54 n.44 [Tunisia's Counter-Memorial], Vol.IV, 117 n.3 [Libya's Reply], Vol.V, 110 [Counsel Colliard, 2 October 1981], 271-272 [Counsel Sir Robert Jennings, 13 October 1981].

On 1974/5 *US v. Maine et al.* Judgments [420 US 515; 423 US 1; 69 AJIL 432, 683 (1975)], see *Aegean Sea* Pleadings, 139 [Reply, 27 Aug 1976], 258-259 n.1 Greece's [Memorial (Jurisd.)]; 2001 *Newfoundland and Labrador/Nova Scotia Limits of Their Offshore Areas (Phase I)* Award, para.3.5 <<http://www.bissettmatheson.com/arbitration/>>.

On 1975 *New South Wales v. The Commonwealth (Australia) Seas and Submerged Lands* Judgment [51 ILR 89], see *Aegean Sea* Pleadings, 139 [Reply, 27 Aug 1976], 258-259 n.1 [Greece's Memorial (Jurisd.)], 458 [Counsel O'Connell, 16 Oct 1978]; 2001 *Newfoundland and Labrador/Nova Scotia Limits of Their Offshore Areas (Phase I)* Award, para.3.5 <<http://www.bissettmatheson.com/arbitration/>>.

ACCESS TO, JURISDICTION AND TREATMENT IN PORTS

1958 TSC, ARTICLES 5, 14(2) AND 16(2); 1958 HSC, ARTICLES 3, 6(1) AND 12(1)(C)

1982 LOSC, PART II, ARTICLES 8, 18(1) AND 25(2), PART VII, ARTICLES 92(1) AND 98(1)(C), PART X, ARTICLES 129 AND 131, PART XII, ARTICLES 211(3), 218-220 AND 225, PART XIII, ARTICLE 255

1995 SSA, ARTICLE 23

Danzig Port

(one of the former protectorates in Europe):

SS Wimbledon PCIJ Series A, No.1 (1923) – Judgment, 19, Dissent Schücking, 47 [The *Wimbledon* was on its way to Polish Naval Base at Danzig when it was refused passage through the Kiel Canal].

Access To, Or Anchorage In, The Port of Danzig, of Polish War Vessels Advisory Opinion, PCIJ Series A/B, No.43 (1931), President M. Adatci concurring – Part III, Section XI of the Treaty of Peace, Versailles, 28 June 1919 [in force: 10 January 1920, 13 AJIL Supp. 151, 359-361 (1919)]; Poland/Danzig Convention of Paris of 9 November 1920.

PCIJ Series E, No.8, 221; *League of Nations Official Journal* 1932, 489; Poland/Danzig Protocol of 13 August 1932, *id.* 1933, 142.

Other five advisory cases which were litigated between Poland and the Free City of Danzig with respect to the international and constitutional position of Danzig (Gdansk) were: *Polish Postal Service in Danzig*, PCIJ Series B, No.11 (1925), *Jurisdiction of the Courts of Danzig Over Pecuniary Claims of Danzig Railway Officials Who Have Passed Into the Polish Service Against the Polish Railways Administration*, PCIJ Series B, No.15 (1928), *Free City of Danzig and International Labour Organization*, PCIJ Series B, No.18 (1930), *Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory*, PCIJ Series A/B, No.44 (1932), and *Consistency of Certain Danzig Legislative Decrees With the Constitution of the Free City*, PCIJ Series A/B, No.65 (1935), Advisory Opinions.

For reliance on the *Polish War Vessels* Advisory Opinion, see *Corfu Channel (Merits)* Dissent Azevedo, ICJ Rep. 1949, 100; *Guinea-Bissau v. Senegal Arbitral Award of 31 July 1989* Dissent Weeramantry, ICJ Rep. 1991, 146.

On status of the Free City of Danzig, see also *Aegean Sea Pleadings*, 445 [Counsel O'Connell, 16 Oct 1978], 601 [Turkey's Letter].

Relevant Jurisprudence

SS Lotus Dissent Moore, PCIJ Series A, No.10 (1927), 87, Dissent Altamira, 101; *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 53, 75 [Agent Basdevant, 2 and 3 Aug 1927], 180 [France's Memorial], 232-235 [Turkey's Memorial], 259, 273 [France's Counter-Memorial], 418 [Consultation Mercier]; *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 36 [Denmark's Memorial], 285, 421 [Norway's Counter-Memorial], No.63, 784-785 [Denmark's Reply]. No.64, 1541, No.65, 2456, No.66, 3150 [Counsel Sunde, 10 Dec 1932]; *Corfu Channel (Merits)* Judgment, ICJ Rep. 1949, 29, Dissents Winiarski, 50, 54, Badawi Pacha, 59, 63, Azevedo, 99, 101, 107, 109, 111; *Corfu Channel* Pleadings, Vol.I, 38, 42 [UK Memorial], Vol.II, 243, 293 [UK Reply], 356 [Albania's Rejoinder], Vol.III, 273-275, 279 [Agent Sir Eric Beckett, 11 Nov 1948], Vol.IV, 543, 571 [Beckett, 18 and 19 Jan 1949]; *Minquiers and Ecrehos* Judgment, ICJ Rep 1953, 65, 66; *Minquiers and Ecrehos* Pleadings, Vol.I, 119 [UK Memorial], 549, 555 [UK Reply], Vol.II, 184, 336 [Counsel Harrison, 24 Sep and 5 Oct 1953]; *Antarctica* Pleadings, 19, 21, 31, 58, 60, 67 [UK Applications]; *IMCO* Pleadings, 184

[Panama], 208-209 [P, *The Savannah*]; *Fisheries Jurisdiction (Interim Measures) Orders*, ICJ Rep. 1972, 13, 31, (*Merits*) Judgments, ICJ Rep. 1974, 28, 197; *Fisheries Jurisdiction Pleadings* (UK), 74, 77 [Request], 375, 420 [Memorial (*Merits*)]; *Aegean Sea (Interim Measures) Order*, ICJ Rep. 1976, 8, para.19, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 20-37, Dissent Stassinopoulos, 76, 78-80, 341-346 [Counsel O'Connell, 10 Oct 1978], 421 [Counsel Weil, 13 Oct], 426-439 [Counsel Economides, 13 and 16 Oct 1978]; *Gulf of Maine Judgment*, ICJ Rep. 1984, 277, 343; *Pleadings*, Vol.I, 196 [Canada's Memorial], Vol.III, 56-57, 226 [Canada's Counter-Memorial], Vol.V, 46 [Canada's Reply], 636 [US Reply]; *Libya/Malta Pleadings*, Vol.I, 128 [Libya's Memorial], Vol.II, 70 [Libya's Counter-Memorial], 251 [Malta's Counter-Memorial], Vol.IV, 438 [Counsel Jaenicke, 21 Feb 1985]; *Nicaragua v. USA (Provisional Measures) Order*, ICJ Rep. 1984, 170, para.1(b), 181, para.28, 187, para.41(B)(1), Dissent Schwebel, 190, 199, (*Merits*) Judgment, ICJ Rep. 1986, 46-53, paras 76-92, and 111-112, paras 213-214, Dissent Schwebel, 259; *Great Belt (Provisional Measures) Order*, ICJ Rep. 1991, 14, 16, 18-19; *Pleadings*, 114 [Co-Agent Koskeniemi, 1 July 1991], 138 [Counsel Gimsing, 2 July 1991], 463, 542, 549 [Denmark's Counter-Memorial]; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 605, Separate O. Bernardez, 691, 697; *Nuclear Tests* Dissent Palmer, ICJ Rep. 1995, 387-388; *Spain v. Canada Fisheries (Jurisdiction) Judgment*, ICJ Rep. 1998, 443-446, paras 19-22, Torres Bernardez, 598, para.47; *Pleadings*, 434 [Counsel Rodriguez, 9 June 1998], 463 [Counsel Highet, 10 June], 512 [Co-Agent Hankey, 11 June 1998]; *Qatar v. Bahrain (Merits) Judgment*, para.37, ICJ Rep. 2001 (in press), Dissent Torres Bernardez, paras 89, 91. 519.

1977 *Anglo/French Decision* [18 ILM 397 (1979)], paras 161-162, 175-176, 188; 1985 *Guinea-Guinea/Bissau Award* [25 ILM 301 (1986)], para.121; *Canada/France* Dissent Weil, para.31 [31 ILM 1209 (1992)]; 1998 *Eritrea/Yemen (Phase I) Award*, paras 143, 285, and 1999 (*Phase II*) Award, paras 107-111 [40 ILM 900, 983 (2001) <<http://www.pca-cpa.org>>]; 2001 *EC/Chile Swordfish*, ITLOS Case No.7, President P. Chandrasekhara Rao, and WTO Panel [Fisheries *infra*; <<http://www.itlos.org>> <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>].

Deepwater Ports

Aegean Sea Pleadings, 456 [Counsel O'Connell, 16 Oct 1978].

Ports/Oil and Gas Development

North Sea Continental Shelf Separate O. Jessup, ICJ Rep. 1969, 68; *Pleadings*, Vol.I, 203 [Denmark's Counter-Memorial], 355 [NL Counter-Memorial];

Tunisia/Libya (Merits) Separate O. de Arechaga, ICJ Rep. 1982, 121-122; *Gulf of Maine* Pleadings, Vol.III, 57 [Canada's Counter-Memorial]; *Iran v. USA Oil Platforms* – see High Seas, Freedom of the High Seas *infra*.

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On the Convention and Statute on the International Regime of Maritime Ports, Geneva, 9 December 1923 [in force: 26 July 1926, 58 LNTS 287], see *Corfu Channel* Pleadings, Vol.III, 274-275 [Agent Sir Eric Beckett, 11 Nov 1948]; *IMCO* Pleadings, 51 [Liberia]; *Great Belt* Pleadings, 344 n.3 [Finland's Memorial]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.24.

On 1887 *US v. Wildenhuis (The Noorland)* Judgment [120 US 1; No.44/Simmonds], see *SS Lotus* Dissent Moore, PCIJ Series A, No. 10 (1927), 68-69; *IMCO* Pleadings, 184 [Panama].

On 1891 *The August* Judgment [C.A. 328], see *IMCO* Pleadings, 257 [India].

On 1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment, see *Equitable Maritime Boundary Delimitation infra*.

On 1923 *Cunard SS Co. v. Mellon* Judgment [262 US 100; 285 F. 516 (2d Cir. 1922); 17 AJIL 563 (1923)], see *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 537 [UK Reply].

1986/90 *New Zealand v. France The Rainbow Warrior* [NZ v. France Ruling by UN Secretary-General Javier Perez de Cuellar of 6 July 1986 – 74 ILR 241; 26 ILM 1341 (1987); 81 AJIL 325 (1987); 90 RGDIP 216-225, 993-996 (1986); No.446/Stuyt; *Greenpeace v. France* Award of 2 October 1987 – 74 ILR 274; 33 AFDI 923-924 (1987); 34 AFDI 896-897 (1988); 92 RGDIP 395 (1988); No.447/Stuyt; *NZ v. France (Treatment of Mafart and Prieur* Award of 30 April 1990, President Eduardo Jimenez de Arechaga (Uruguay/ICJ), Jean-Denis Bredin (France), Sir Kenneth Keith (New Zealand) – 82 ILR 449; 93 RGDIP 444 (1989); 94 RGDIP 806-847, 1069-1070 (1990); No.448/Stuyt], see *Nuclear Tests* Dissent Palmer, ICJ Rep. 1995, 388. Cf. <http://www.greenpeace.org/au/rainbow_warrior/about.html>.

See also Internal Waters, Territorial Sea and Baselines – FCN Treaties, and Ports and Roadsteads, *supra*; Protection and Preservation of the Marine Environment – Pollution from Vessels/Port State Jurisdiction; Right of Access of Land-Locked States to and from the Sea and Freedom of Transit; Settlement of Disputes – Prompt Release of Vessels and Crews *infra*.

CONTIGUOUS ZONE

1958 TSC, ARTICLE 24

1982 LOSC, PART II, ARTICLE 33, AND PART XVI, ARTICLE 303(2):

Corfu Channel (Merits) Dissent Azevedo, ICJ Rep. 1949, 99-100; *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Individual O. Alvarez, 150, Dissent Sir Arnold McNair, 159; *Anglo/Norwegian Pleadings*, Vol.I, 38, 50 [UK Memorial], 277-279, 352-354 [Norway's Counter-Memorial], Vol.II, 86-89 [texts], 412, 582 [UK Reply], Vol.III, 647 [texts]; *Minquiers and Ecrehos* Individual O. Basdevant, ICJ Rep. 1953, 82; *North Sea Judgment*, ICJ Rep. 1969, 51, para.96, Separate O. Ammoun, 108, 124, 128, Dissent Vice-President Koretsky, 159, 161, Dissent Sorensen, 249-252; *North Sea Pleadings*, Vol.I, 364 [NL Counter-Memorial], 461 [Common Rejoinder of Denmark/NL], Vol.II, 92-93, 97 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 125-126, 138 [Agent Riphagen, 30 and 31 Oct], 193 [Counsel Shigeru Oda, 5 Nov], 264 [Reply by Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction)* Separate Os Fitzmaurice, ICJ Rep. 1973, 25, 29 n.10, 69, 73 n.10, (*Merits*) Judgments, ICJ Rep. 1974, 22, 191, Joint Separate Os, 46, 218, Separate Os de Castro, 92, 93, 225, Separate Os Waldock, 109, 227, Dissent Gros 135; *Fisheries Jurisdiction Pleadings (UK)*, 459 [Counsel Silkin, 25 March 1974]; *Aegean Sea Pleadings*, 99 [Counsel O'Connell, 26 Aug], 140 [27 Aug 1976], 442, 454 [16 Oct 1978]; *Tunisia/Libya (Merits) Judgment*, ICJ Rep. 1982, 65, 69, Dissent Oda, 227; *Gulf of Maine Judgment*, ICJ Rep. 1984, 302, Dissent Gros, 365, 381; *Pleadings*, Vol.IV, 83 [US Counter-Memorial], Vol.V, 411, 512, 536 [US Reply]; *Libya/Malta Pleadings*, Vol.I, 66, 69 [Libya's Memorial], Vol.II, 73, 115 [Libya's Counter-Memorial], Vol.III, 440-441 [Counsel Brownlie, 3 Dec 1984], Vol.IV, 437 [Counsel Jaenicke, 21 Feb 1985]; *Guinea-Bissau v. Senegal (Provisional Measures) Order*, ICJ Rep. 1990, 68, Dissent Thierry, 82-83, *Arbitral Award Judgment*, ICJ Rep. 1991, 57, 59, 64, 66, Separate Os Vice-President Oda, 81-82, 85, 86, Ni, 96-97, 101, Shahabuddeen, 116. Dissents Weeramantry, 131, 150, 170, Thierry, 177, 181; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 608; *Denmark v. Norway* Separate O. Oda, ICJ Rep. 1993, 102; Oral Hearings, CR 93/1Corr., 28 [Agent Lehmann, 11 Jan 1993], CR 93/3, 50 [13 Jan], CR 93/9 [trans.], 26-27 [Counsel Weil, 21 Jan 1993].

1985 *Guinea/Guinea-Bissau* Award, para.29 [25 ILM 268 (1986)]; 1989 *Guinea-Bissau/Senegal* Award [94 RGDIP 270 (1990)], para.85; *Canada/France* Award, para.69 [31 ILM 1170 (1992)], Dissent Gotlieb, para.61 [*id.* 1195], Dissent Weil, paras 3-4 [*id.* 1198]; 1997 *M/V Saiga (Prompt Release) Judgment*, ITLOS Case No.1 [37 ILM 360 (1998)], paras 54, 60-61, 70, Dissents President Mensah, Anderson, Joint Dissent; *M/V Saiga Judgment*, ITLOS Case No.2 [38

ILM 1323 (1999)], paras 28-30, 110-127, 151-152, Separate Os Vukas, para.20, Laing, paras 5-16, 51 <<http://www.itlos.org>>.

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On Convention for the Suppression of the Contraband Traffic in Alcoholic Liquors, Helsinki, 19 August 1925 [in force: 24 December 1925, 42 LNTS 75], see *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 35 [Denmark's Memorial]; *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 278-279, 483 [Norway's Counter-Memorial], Vol.II, 88-89 [excerpts], 346, 539, 541-542 [UK Reply], Vol.III, 383 [Norway's Rejoinder].

On 1804 *Church v. Hubbart (The Aurora)*, see Internal Waters, Territorial Sea and Baselines *supra*.

On 1888 *The Araunah*, see Fisheries *infra*.

On 1893 *UK/USA Behring Sea Fur Seal*, see Fisheries *infra*.

On 1922 *The Grace and Ruby* [283 Fed. 475 (D. Mass.); 19 AJIL 157 (1925); *Gulf of Maine Pleadings*, Vol.V, 639-645], see *Gulf of Maine Pleadings*, Vol. V, 471 n.3, 635, 648-653 [US Reply], citing Jessup 1927 [*id.* 647-653].

On 1927 *Deutschland*, see Internal Waters, Territorial Sea and Baselines *supra*.

On 1935 *Canada/USA I'm Alone (The Wolcott, The Dexter)* Award, see Use of Force in Enforcement at Sea *infra*.

See also High Seas – Hot Pursuit; Archaeological and Historical Objects *infra*.

INTER-OCEANIC CANALS

France, Britain, Italy, Japan v. Germany SS Wimbledon PCIJ Series A, No.1 (1923) – (*Question of Intervention by Poland*) Judgment [unanimous], 11, President B.C.J. Loder; (*Merits*) Judgment, 15, President B.C.J. Loder concurring – Kiel Canal, Article 380 of the Treaty of Peace, Versailles, 28 June 1919 [in force: 10 January 1920, 13 AJIL Supp. 151, 359-361 (1919)].

PCIJ Series E, No.1, 163.

For reference to passage through canals, see *Corfu Channel (Merits)* ICJ Reports 1949, 4 – Dissent Azevedo, 99.

Definition of an Inter-Oceanic Canal

Great Belt Pleadings, 541-542 [Denmark's Counter-Memorial].

Concept of International Servitudes

SS Wimbledon Judgment, 24-25, Dissent Schücking, 43-45.

This concept was earlier also rejected (in accordance with the British contention) by the 1910 *UK/USA North Atlantic Coast Fisheries Award* [RIAA XI, 167; No.291/Stuyt]. However, Germany might have been encouraged by the 1914 *Dutch State Servitude in Prussia Judgment* [8 AJIL 858-860, 907-913 (1914)], in which the Supreme Court of Cologne decided that the right claimed by Holland was not a mining concession subject to Prussian law, but an international servitude created by the 1816 Prussia/Netherlands Boundary Treaty.

For reliance on rejection of servitudes in the 1910 Award, see *Rights of Nationals of the USA in Morocco Pleadings*, Vol.I, 66 [France's Memorial], Vol.II, 173 [Agent Gros, 16 July 1952]; *Minquiers and Ecrehos Pleadings*, Vol.II, 88 [Counsel Fitzmaurice, 21 Sep 1953].

On the concept of servitudes, see also the *Corfu Channel (Merits) Dissent Azevedo*, ICJ Rep. 1949, 104; *Minquiers and Ecrehos Pleadings*, Vol.I, 473, 477, 487 [UK Reply], 716 [France's Rejoinder]; *Aegean Sea (Jurisdiction) Dissent de Castro*, ICJ Rep. 1978, 65; *Great Belt Pleadings*, 154 [Counsel Jimenez de Arechaga, 2 July 1991], 397 [Denmark's Counter-Memorial]; *Guinea-Bissau v. Senegal Arbitral Award Dissent Weeramantry*, ICJ Rep. 1991, 153; *Gabcikovo Oral Hearings*, CR 97/6, 46 [Counsel Sands, 7 March 1997]; 1998 *Eritrea/Yemen (Phase I) Award*, para.126 and 1999 *(Phase II) Award*, paras 27, 38 [40 ILM 900, 983 (2001) <<http://www.pca-cpa.org>>]; *Qatar v. Bahrain (Merits) Joint Dissent Bedjaoui, Ranjeva, Koroma*, paras 172, 175, ICJ Rep. 2001 (in press).

Individual Canals

On Suez Canal and Panama Canal, see *SS Wimbledon Judgment*, 25-28, Dissent Anzilotti and Huber, 39, 40, Dissent Schücking, 43-44, 46; *SS Wimbledon Pleadings*, PCIJ Series C, No.3-Additional Volume, 47-48 [Germany's Counter-Memorial], 69-71, 84-85, 88, 99, 101-102, 108 [Reply of Four Powers], 146-147, 155 [Germany's Rejoinder]; *SS Lotus Pleadings*, PCIJ Series C, No.13-II, 162-163 [Agent Basdevant, 9 Aug 1927]; *Eastern Greenland Pleadings*, PCIJ Series C, No.67, 3592 [Counsel Rygh, 3 Feb 1933]; *Corfu Channel (Merits) Dissent Azevedo*, ICJ Rep. 1949, 105; *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 427 [UK Reply], Vol.III, 290 [Norway's Rejoinder]; *IMCO Pleadings*, 61 [Liberia]; *Nuclear Tests Pleadings (New Zealand)*, 58 [Request]; *Tunisia/Libya Pleadings*, Vol.I, 483 [Libya's Memorial], Vol.II, 48 [Tunisia's Counter-Memorial]; *Taba Award*, paras 22, 30, 38, 69 [27 ILM 1436, 1438-1439, 1447 (1988)]; *Great Belt Pleadings*, 59 [Denmark's Observations], 312-314 [Finland's Memorial], 547-548 [Denmark's Counter-Memorial]; 1998 *Eritrea/Yemen (Phase I) Award*, paras 93, 125 <<http://www.pca-cpa.org>>; 2001 *Ireland v. UK Mox Plant Ireland's Request & Statement*, paras 33, 36 <<http://www.un.org/Depts/los/>>.

On Convention Respecting the Free Navigation of the Suez Canal, Constantinople, 29 October 1888 [in force: 22 December 1888, 171 CTS 241], see *Great Belt Pleadings*, 313 [Finland's Memorial].

On Panama/USA Panama Canal Treaty and Treaty on the Permanent Neutrality and Operation of the Panama Canal, both of 7 September 1977 [in force: 1 October 1979, 1280 UNTS 3; 16 ILM 1022, 1040 (1977)], see *Great Belt Pleadings*, 313, 351 n.3 [Finland's Memorial].

On the 1920 *The Dorrit* incident – Kiel Canal, see *SS Wimbledon Pleadings*, 4, 5-6, 20-31 [Memorial of Four Powers], 40-41 [Germany's Counter-Memorial], 62-63 [Reply of Four Powers], 140 [Germany's Rejoinder]; *Tunisia/Libya Pleadings*, Vol.III, 451-452 [Counsel Bathurst, 23 March 1981].

For reference to the Kiel Canal, see *SS Wimbledon* [*supra*]; *SS Lotus Pleadings*, PCIJ Series C, No.13-II, 163 [Agent Basdevant, 9 August 1927]; *Corfu Channel (Merits) Dissent Azevedo*, ICJ Rep. 1949, 108; *Nuclear Tests Pleadings (Australia)*, 326 [Memorial]; *Tunisia/Libya (Intervention) Judgment*, ICJ Rep. 1981, 15, Separate O. Oda, 28; *Pleadings*, Vol.III, 378-379 [Counsel Vallat, 20 March 1981]; *Libya/Malta (Intervention) Dissents Sette-Camara*, ICJ Rep. 1984, 74, Oda, 99; *Great Belt (Provisional Measures) Order*, ICJ Rep. 1991, 16; *Pleadings*, 59 [Denmark's Observations], 138 [Counsel Gimsing, 2 July 1991], 239, 241-242, 311-313 [Finland's Memorial], 546-547 [Denmark's Counter-Memorial]; *M/V Saiga Separate O. Laing* [38 ILM 1323 (1999)], paras 24-25.

German state practice since the 1950s, has likely terminated the validity of the Versailles provisions with respect to warships by requiring foreign warships to notify and to obtain authorization from the Foreign Office to pass through the Kiel Canal. For NATO warships this has meant merely registering with local German naval units. Even if the Versailles Treaty is no longer applicable, the multitude of bilateral treaties, the European Community law and the status of the Baltic Sea as a cooperation zone support the customary norm of free passage of the merchant shipping through the Kiel Canal as the most used man-made waterway, which shortens sea travel into the Baltic by a maximum (Hamburg/Möen route) of 440 miles.

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On 1916 *Costa Rica v. Nicaragua* Judgment of the Central American Court of Justice (construction of an inter-oceanic canal under the 1914 Bryan-Chamorro Treaty) [11 AJIL 181 (1917); 17 AJIL 309 (1923); 25 AJIL 328 (1931)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 447 [Norway's Counter-Memorial], Vol.III, 644 [Norway's Rejoinder]; *Gulf of Fonseca (Intervention) Judgment*, ICJ Rep. 1990, 104, (*Merits*) Judgment, ICJ Rep. 1992, 590, 600-601, Separate O. Bernardez, 725; Oral Hearings, C 4/CR 91/43, 41 [Agent Arguello, 7 June 1991]; *East Timor Separate O. Shahabuddeen*, ICJ Rep. 1995, 124 n.3, Dissent

Skubiszewski, 253; Oral Hearings [trans.], CR 95/6, 29 [Co-Agent Teles, 3 Feb 1995], CR 95/8, 55 [Counsel Crawford, 7 Feb], CR 95/13, 62 [Teles, 13 Feb 1995].

On 1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment, see Equitable Maritime Boundary Delimitation *infra*.

STRAITS USED FOR INTERNATIONAL NAVIGATION

1930 HAGUE DRAFT, ARTICLE 12, AND ANNEX II, APPENDIX B:

**COMPROMISE-PROPOSAL OF THE FRENCH DELEGATION (STRAITS), 252
1958 TSC, ARTICLE 16(4)**

**1982 LOSC, PART III, ARTICLES 34-45, PART V/VI, ARTICLES 60(7)/80,
PART XII, ARTICLE 233**

Relevant Jurisprudence

Corfu Channel (Preliminary Objection) Judgment, ICJ Rep. 1947/1948, 15, President J.G. Guerrero concurring; *Corfu Channel (Merits)* Judgment, ICJ Rep. 1949, 4, Acting President Guerrero concurring; *Corfu Channel (Assessment of the Amount of Compensation Due From the People's Republic of Albania to the United Kingdom of Great Britain and Northern Ireland)* Judgment, *id.* 244; Orders, ICJ Rep. 1947, 4, 7, 1948, 53, 124, 1949, 171, 222, 237.

1953 *France, UK, USA v. Italy Monetary Gold Looted by Germany From Rome* Arbitral Advice of G. Sauser-Hall [20 ILR 441; RIAA XII,19; No.415/Stuyt]; *Italy v. France, UK and USA Monetary Gold Removed From Rome in 1943 (Preliminary Question)* Judgment, ICJ Reports 1954, 19, Vice-President J.G. Guerrero, Acting President.

UK/Albania Rome Agreement of 8 May 1992 [on the file with the author], referred to in, Speech of President Sir Robert Jennings to the UNCED, Rio de Janeiro, 3-14 June 1992, *ICJ Yearbook 1991-1992* 212, 217 (No.46); USA/Albania Tirana Agreement on the Settlement of Certain Outstanding Claims and Financial Issues of 10 March 1995 [in force: 18 April 1995, 34 ILM 595 (1995)]; France/Albania Agreement on the Settlement of the Question of Monetary Gold Matter and Other Public or Private Claims of 22 February 1996 [1941 UNTS 358].

The Corfu Channel exemplifies geographical location of straits [*Corfu Channel* Pleadings, Vol.I, 21 (UK Memorial)] covered presently by the 1982 LOSC, Article 38(1) referred to under Innocent Passage Through Straits *infra*.

Anglo/Norwegian Fisheries ICJ Rep. 1951, 116 – Judgment, 123, 127, 130, 132, 142, Separate O. Hsu Mo, 156; *Anglo/Norwegian Fisheries* Pleadings, Vol.I,

517-520 [Norway's Counter-Memorial], Vol.II, 402, 573, 579, 683 [UK Reply], Vol.III, 22-27, 402-406, 409, 429-446 [Norway's Rejoinder], Vol.IV, 293-295, 300-307 [Counsel Bourquin, 11 Oct 1951], 413-414 [Counsel Waldock, 18 Oct 1951].

It was of greatest importance to Norway that the Indreleia Strait, stretching along almost the whole of the coast of southern, western and northern Norway, and passing straight through the naval base in the port of Tromsø, was acknowledged by the Court to be not strait but international waterway of Norway.

Finland v. Denmark Passage Through the Great Belt (Request for the Indication of Provisional Measures) Order, ICJ Rep. 1991, 12 [unanimous], President Sir Robert Jennings, Declaration Tarassov, 22, Separate O. Vice-President Oda, 25, Separate Os Shahabuddeen, 28, Broms, 37; Order, *id.* 40; (*Discontinuance*) Order of President Jennings, ICJ Rep. 1992, 348.

Press Release No.281 of Finland's Ministry of Foreign Affairs and Press Release No.88 of Denmark's Ministry of Foreign Affairs, both of 3 September 1992 [27 *Ocean Dev. & Int'l L.* 288 (1996)].

Statement of President Stephen M. Schwebel to the 52nd UNGA [UN Doc. A/52/PV.36, 3 (27 October 1997) <<http://www.icj-cij.org>>, reprinted in *ICJ Yearbook 1997-1998* 288-300 (No.52) and 92 *AJIL* 614 (1998); Statement of President Schwebel on the Occasion of Visit of President Martti Ahtisaari of Finland to the Court on 20 January 1999, *ICJ Communiqué* No.99/1 <<http://www.icj-cij.org>>.

See also Settlement of Disputes – Preventive Diplomacy, B) *infra*.

Had the *Great Belt* case proceeded to the phase of merits, it would have been the second (after *Corfu*) case contributing to the critical regime of international straits, including the issues pertaining to Transit Passage, bridges over straits and mobile offshore drilling units (MODU – drill ships and drill rigs), as well as the IMO involvement in those matters. See Pleadings, 88-93 [Agent Gronberg, 1 July 1991], 116 [Co-Agent Koskenniemi], 146-154 [Counsel Jimenez de Arechaga, 2 July], 156-160 [Agent Fergo], 181-184 [Gronberg, 4 July], 202 [Judge Schwebel's Questions], 204-205 [Gronberg's Reply to Schwebel, 5 July 1991], 210-215 [Agent Magid], 215-216 [his Reply to Schwebel], 224 [Agent Lehmann], 234, 242, 256, 275-292, 335-340 [Finland's Memorial], 463-465, 470-509, 574, 589-596 [Denmark's Counter-Memorial].

On two bridges erected over the Turkish Straits in 1973 and 1988, and on the Kanmon, Seto and Akashi Kaikyo Bridges constructed by Japan in 1971, 1973 and 1998, see *Great Belt* Pleadings, 126 [Agent Lehmann, 2 July 1991], 140-142 [Counsel Gimsing]; on bridges over the Kiel Canal, see *id.* 138; also *id.* 139

(Golden Gate and Verrazano Narrows Bridges), 183-184 [Agent Gronberg, 4 July 1991].

On Eurotunnel constructed in the English Channel under UK/France Treaty of 12 February 1986 [in force: July 1987, 39 AFDI 833 (1993)] and opened on 6 May 1994, see *Great Belt Pleadings*, 314 [Finland's Memorial], 488, 552-555 [Denmark's Counter-Memorial].

On these and other bridges and tunnels, see also *Great Belt Pleadings*, 59-60, 71 [Denmark's Observations], 311-317, 339 [Finland's Memorial], 543-577 [Denmark's Counter-Memorial].

Definition of Strait Used for International Navigation

1930 Hague Draft, Article 12, and Annex II, Appendix B: Compromise-

Proposal of the French Delegation (Straits), 252; 1958 TSC, Article 16(4); 1982 LOSC, Article 37:

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Judgment, 27, 28-29, Individual O. Alvarez, 46, Dissent Azevedo, 105-107; *Corfu Pleadings*, Vol.I, 21, 24, 40, 42 [UK Memorial], Vol.II, 130-131 [Albania's Counter-Memorial], 242-243, 295-296, 298 [UK Reply], Vol.II, 356 [Albania's Rejoinder], Vol.III, 200-201 [Counsel Shawcross, 9 Nov 1948], 268, 278, 287-288 [Agent Sir Eric Beckett, 11 and 12 Nov], 382-383 [Counsel Cot, 18 Nov 1948], Vol.IV, 547-551 [Agent Beckett, 18 Jan 1949]; *Anglo/Norwegian Fisheries* Judgment, ICJ Reports 1951, 120, 122, 132; *Pleadings*, Vol.I, 77-79, 84, 86 [UK Memorial], 495-520 [Norway's Counter-Memorial], Vol.II, 554-579 [UK Reply]; *IMCO Pleadings*, 132 [USA], 179 [Panama], 334 [Italy]; *Gulf of Maine Pleadings*, Vol.V, 533 [US Reply]; *Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 13, para.5, Declaration Tarassov, 22; *Pleadings*, 7 [Finland's Application, para.24], 88 [Agent Gronberg, 1 July 1991], 147 [Counsel de Arechaga, 2 July 1991], 253 [Finland's Memorial], 541 [Denmark's Counter-Memorial].

See also *ILC Yearbook 1956-II*, 273, 277; Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 48-49, 55-57 (Oxford 1999).

Transit Passage

1958 HSC; 1982 LOSC, Part III, Articles 37-44, Part XII, Article 233:

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Judgment, 10, 27-31 (esp.28, 29). The Court expounded the right of non-suspendable Innocent Passage as then envisaged in the 1930 Hague Draft to straits such as the Corfu Channel, because navigation through all strategically important straits was at the time of a 3-mile TS limit governed by the high seas freedom of navigation. But the underlying concern of the *Corfu Channel (Merits)* Judgment with preserving the free

passage of warships and commercial ships through straits is the same as in the case of non-suspendable Transit Passage laid down in the 1982 LOSC as a result of a 12-mile TS limit.

Tunisia/Libya (Merits) Dissent Oda, ICJ Rep. 1982, 223-224; *Gulf of Maine Pleadings*, Vol.V, 386 [US Reply]; *Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 13-14, Declaration Tarassov, 22-24, Separate O. Broms, 37-38; Pleadings, 7-9 [Finland's Application, paras 25-33], 67 [Denmark's Observations], 88-91 [Agent Gronberg, 1 July 1991], 147-154 [Counsel de Arechaga, 2 July], 155-156 [Agent Fergo], 193-194 [Counsel Treves, 4 July], 224 [Agent Lehmann, 5 July 1991], 235, 328-329, 334-335 [Finland's Memorial], 554, 601-602, 615-628, 645 [Denmark's Counter-Memorial]; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.110 n.92, ICJ Rep. 1999, 1192 <<http://www.icj-cij.org>>.

See also Statements of Greece and Turkey under the *Aegean Sea* case in *Equitable Maritime Boundary Delimitation infra*.

Innocent Passage through Straits

1930 Hague Draft, Article 12, and Annex II, Appendix B: Compromise-

Proposal of the French Delegation (Straits), 252; 1958 TSC, Article 16(4); 1982 LOSC, Part III, Articles 38(1) and 45:

SS Wimbledon PCIJ Series A, No.1 (1923) – Judgment, 28, Dissent Schücking, 45-46; *SS Wimbledon Pleadings*, PCIJ Series C, No.3-Additional Volume, 42 [Counter-Memorial of Germany]; *Legal Status of Eastern Greenland* PCIJ Series A/B, No.53 (1933) – Dissent Vogt, 107, 109, 117; *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 414-416, 418 [Norway's Counter-Memorial], No.63, 766, 783-784 [Denmark's Reply], 1066-1070 [Norway's Rejoinder], No.66, 2779-2781 [Agent Steglich-Petersen, 26 Nov 1932]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 10, 27-31 (esp.28, 29), Individual O. Alvarez, 46-47, Dissents Winiarski, 55-56, Krylov, 73-75, Azevedo, 97-98, 103-109, Ecer, 128-130; *Corfu Pleadings*, Vol.I, 24, 42-47, 51, [UK Memorial], Vol.II, 128-133, 142-143 [Albania's Counter-Memorial], 242-243, 256-257, 281, 295-299 [UK Reply], 354-358 [Albania's Rejoinder], Vol.III, 267-288 [Agent Sir Eric Beckett, 11 Nov 1948], 376-405 [Counsel Cot, 18 Nov 1948], Vol.IV, 546-565 [Agent Beckett, 18 Jan 1949], 669-689 [Counsel Cot, 22 Jan 1949]; *Anglo-Norwegian Fisheries* Judgment, ICJ Rep. 1951, 132; *Anglo-Norwegian Pleadings*, Vol.I, 77-79, 86 [UK Memorial], 495-520 [Norway's Counter-Memorial], Vol.II, 407, 434, 437, 554-573, 579, 683 [UK Reply], Vol.III, 22-27, 395-434, 437 [Norway's Rejoinder], Vol.IV, 39 [Agent Sir Eric Beckett, 25 Sep 1951], 251-252, 291-306 [Counsel Bourquin, 9 and 11 Oct 1951]; *Nuclear Tests Pleadings (Australia)*, 329 [Memorial]; *Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 13;

Pleadings, 7 [Finland's Application, para.25], 88 [Agent Gronberg, 1 July 1991], CR 91/11, 148-151 [Counsel de Arechaga, 2 July], 193-194 [Counsel Treves, 4 July 1991]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/40, 26 [Counsel Lauterpacht, 5 June 1991], CR 91/43, 78 [Counsel Brownlie, 7 June 1991].

See also *ILC Yearbook 1956-II*, 273, 277; Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 48-49, 55-57 (Oxford 1999).

Longstanding International Conventions in Force

1982 LOSC, Article 35(c):

SS Wimbledon Pleadings, PCIJ Series C, No.3-Additional Volume, 42-43 [Germany's Counter-Memorial]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 28, Dissents Krylov, 74, Azevedo, 104, 105, 107; *Corfu* Pleadings, Vol.II, 242, 297 [UK Reply], Vol.III, 383-384 [Counsel Cot, 18 November 1948], Vol.IV, 549, 550-565 [Agent Sir Eric Beckett, 18 Jan 1949], 670 [Counsel Cot, 22 Jan 1949]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 499 [Norway's Counter-Memorial]; *Great Belt* Pleadings, 147-148, 152-154 [Counsel de Arechaga, 2 July 1991], 155 [Counsel Fergo], 326, 329-331 [Finland's Memorial], 601, 603, 619-624 [Denmark's Counter-Memorial].

On special regime of the Sound (Oresund) and the Belts under the Copenhagen Treaty on the Abolition of the Sound Dues of 14 March 1857 [in force: 31 March 1857, 116 CTS 357; 47 BFSP 24] and the US/Denmark Convention on Discontinuance of Sound Dues of 11 April 1857 [11 Stat.719, T.S.67; 7 Bevans 11], see *Corfu (Merits)* Dissent Azevedo, ICJ Rep. 1949, 107; Pleadings, Vol.II, 242 [UK Reply], Vol.IV, 549 [Agent Sir Eric Beckett, 18 Jan 1949]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 514 [Norway's Counter-Memorial], Vol.II, 569 [UK Reply], Vol.IV, 299-300 [Counsel Bourquin, 11 Oct 1951]; *North Sea* Pleadings, Vol.I, 518 [Common Rejoinder of Denmark/NL]; *Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 13-14; Pleadings, 7-9 [Finland's Application, paras 25-33], 68-71 [Denmark's Observations], 88-89 [Agent Gronberg, 1 July 1991], 147-148, 152-154 [Counsel de Arechaga, 2 July], 155-156 [Agent Fergo], 175 [Gronberg, 4 July], 193-194 [Counsel Treves], 225 [Agent Lehmann, 5 July 1991], 244-254, 322-332 [Finland's Memorial], 570-588, 603-628 [Denmark's Counter-Memorial].

On the US position, see Pleadings, 245 [Finland's Memorial], 604 [Denmark's Counter-Memorial]. Cf. *United States Responses to Excessive National Claims, Limits in the Seas* 73 (No.112, 1992). On Russian position, see Pleadings, 181-182 [Agent Gronberg, 4 July 1991], 127 [Agent Lehmann, 2 July], 213 [Agent Magid, 5 July 1991], 246-248, 261-263 [Finland's Memorial].

See also Inter-Oceanic Canals, 1920 *The Dorrit* incident, *supra*.

On special regime of Ahvenanrauma Strait (between the Aalands and Sweden) under Convention on the Non-Fortification and Neutralization of the Aaland Islands of 20 October 1921 [in force: 6 April 1922, 9 LNTS 212], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 458 [Norway's Counter-Memorial]; *Aegean Sea Pleadings*, 252 [Greece's Memorial (Juris)], 445 [Counsel O'Connell, 16 Oct 1978]; *Libya/Malta Pleadings*, Vol.IV, 121-122 [Counsel Colliard, 12 Dec 1984], 312-313 [Counsel Brownlie, 8 Feb 1985]; *Great Belt Pleadings*, 147 [Counsel de Arechaga, 2 July 1991], 323-324 [Finland's Memorial], 611-512, 619-620 [Denmark's Counter-Memorial].

See also Finland's and Sweden's Declarations made with respect to Ahvenanrauma Strait upon their signing the LOSC on 10 December 1982 and ratifying the LOSC and Part XI Agreement on 21 and 25 June 1996 [*UN LOS Bull.* 7, 11 (1996 No.32)]. For the US position, see *Limits in the Seas* 64 (No.112, 1992); *id.* 52 ns 73-75, and at 59.

Safety of Passage Regulations **1982 LOSC, Articles 41-44:**

Great Belt (Provisional Measures) Order, ICJ Rep. 1991, 17-18, Declaration Tarassov, 24, Separate Os Vice-President Oda, 25-26, Broms, 38-39; Pleadings, 5-6 [Finland's Application, paras 14-20], 88 [Agent Gronberg, 1 July 1991], 113-121 [Co-Agent Koskenniemi], 143 [Counsel Gimsing, 2 July], 149-151 [Counsel de Arechaga], 157 [Agent Fergo], 181-182 [Gronberg, 4 July], 202 [Judge Schwebel's Questions], 204-205 [Agent Gronberg's Reply to Schwebel, 5 July 1991], 210-215 [Agent Magid], 215-216 [his Reply to Schwebel].

See also references to the IMO involvement, in *Great Belt [supra]*. 1977 *Anglo/French Decision* [18 ILM 397 (1979)], paras 161-163, 175-176, 188; *M/V Saiga Separate O. Laing* [38 ILM 1323 (1999)], para.50 n.49 <[http://www.un.org/ Depts/los/](http://www.un.org/Depts/los/)>.

On Morocco/Spain Agreement on the Strait of Gibraltar of 20 March 1967, see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 129.

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On 1866 *Mahler v. Norwich and New York Transportation Company* (Long Island Sound) Judgment [Scott, Cases on International Law 219 (1885)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 516 [Norway's Counter-Memorial], Vol.II, 570 [UK Reply], Vol.III, 420-421 [Norway's Rejoinder]; *Tunisia/Libya Pleadings*, Vol.IV, 331 [Libya's Reply].

On 1872 *UK/USA San Juan River Boundary* (Haro Channel, Rosario Strait) Award [No.95/Stuyt], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 516 [Norway's Counter-Memorial]. The 1977 *Re Ownership of the Bed of the Strait*

of *Georgia and Related Areas* Judgment [Canada, 73 ILR 186] took into account the *San Juan River* Award.

On 1885 *Stetson v. US (The Alleghanian; Chesapeake Bay)* Judgment [Scott, 232], see *Anglo/Norwegian Fisheries* Dissent McNair, ICJ Rep. 1951, 168; *Anglo/Norwegian Pleadings*, Vol.I, 553-554, 569 [Norway's Counter-Memorial], Vol.II, 566, 615-617 [UK Reply], Vol.III, 447, 456 [Norway's Rejoinder]; *Tunisia/Libya Pleadings*, Vol.I, 74 [Tunisia's Memorial], Vol.IV, 330 [Libya's Reply]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 737.

On 1910 *North Atlantic Coast Fisheries* Award [RIAA XI, 167; No.291/Stuyt], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 504-506 [Norway's Counter-Memorial], Vol.II, 562-564 [UK Reply].

On 1926 *The J. Duffy (US v. 2802 Cases Scotch Whisky, etc.; Long Island Sound)* Judgment [14 F. 2nd 426 (DC Conn.)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.III, 420 [Norway's Rejoinder].

On 1939 *The City of Flint (Indreleia Strait)* Judgment [Hyde, 34 AJIL 89-95 (1940)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 572 [UK Reply], Vol.III, 25-26 [Norway's Rejoinder].

On 1977/1984 *Argentina/Chile Beagle Channel* case, see *Equitable Maritime Boundary Delimitation* *infra*.

See also *Internal Waters and Territorial Sea, Innocent Passage of Warships; Inter-Oceanic Canals, Concept of International Servitudes*, *supra*.

ARCHIPELAGIC STATES

1982 LOSC, PART II, ARTICLE 2(1), PART IV, ARTICLES 46-54

Archipelagic State: Definition

1982 LOSC, Article 46:

Theory of the Unity of (Coastal) Archipelagos

Anglo/Norwegian Fisheries Pleadings, Vol.I, 480-495 [Norway's Counter-Memorial], Vol.II, 578, 660-662 [UK Reply], Vol.IV, 283-284 [Counsel Bourquin, 11 Oct 1951]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 55, Separate Os Basdevant, 78, Carneiro, 97-102; *Pleadings*, Vol.II, 196-197 [Agent Gros, 28 Sep 1953]; *Gulf of Fonseca* Separate O. Bernardez, ICJ Rep. 1992, 710.

Libya/Malta Pleadings, Vol.II, 68 [Libya's Counter-Memorial], 349 [Malta's Counter-Memorial], Vol.IV, 137 [Counsel Lucchini, 12 Dec 1984]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.180-183, 214, Dissent Torres Bernardez, paras 45-58, 223-226, 248, 251, 362, 463-466, 473-479, 511; Oral Hearings, CR 2000/14, 34-38 [Counsel Reisman, 13 June 2000], CR

2000/15, 15-16 [14 June], CR 2000/25, 10 [29 June 2000] <<http://www.icj-cij.org>>.

On Svalbard Archipelago, see Equitable Maritime Boundary Delimitation – *Denmark v. Norway* case *infra*.

On 1977/1978 *Anglo/French Continental Shelf*, 1977/1984 *Argentina /Chile Beagle Channel*, 1985 *Guinea/Guinea-Bissau*, 1989 *Guinea-Bissau /Senegal* and 1998 *Eritrea/Yemen (Phase I) Awards*, see Equitable Maritime Boundary Delimitation *infra*.

Archipelagic Baselines

1982 LOSC, Article 47-48:

Libya/Malta Pleadings, Vol.I, 129 [Libya's Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 593, para.393; Oral Hearings, C 4/CR 91/45, 28 [Counsel Bowett, 10 June 1991]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press) – see *Bahrain infra*; Oral Hearings, CR 2000/14, 36-37 [Counsel Reisman, 13 June 2000], CR 2000/16, 48-50 [15 June 2000]; *Indonesia/Malaysia* – see *Indonesia and the Philippines infra*.

For Malta's 1971 Territorial Waters and Contiguous Zone Act No.13, as Amended in 1975, 1978 and 1981, see *Libya/Malta* Pleadings, Vol.V, 14 [Map 2], 42 [Fig.11]; *The Law of the Sea – Baselines: National Legislation with Illustrative Maps* 217-218 (UN 1989); *The Law of the Sea – National Legislation on the Territorial Sea* 208-209 (UN 1995). The water to land ratio of Malta (comprising islands of Malta, Gozo, Comino and Cominotto, as well as Fifla) is 0.64:1 (204 square km:320 square km). The *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 20, 48, 50-52, 57, para.79C, Dissent Moslers, 120-121, Oda, 135, 169, Schwebel, 179, did not express any opinion on whether inclusion of tiny uninhabited rock – Fifla Island into the Maltese baselines was legally justified; Pleadings, Vol.I, 35, 65-66, 155, 175 [Libya's Memorial], 413-414 [Malta's Memorial], Vol.II, 37, 41 [Libya's Counter-Memorial], Vol.III, 137 [Malta's Reply], 278, 281 [Agent Mizzi, 26 Nov 1984]. Cf. *Denmark v. Norway* Oral Hearings, CR 93/5, 35 [Agent Tresselt, 15 Jan 1993]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.188, ICJ Rep. 2001 (in press). For Declaration made by Malta on 20 May 1993 upon ratification of the 1982 LOSC, that its baselines are fully compatible with the Convention, see *UN LOS Bull.* 15 (1994, No.25).

Bahrain, including the Hawar Islands which were attributed by the 2001 Judgment to its sovereignty, satisfies the water to land ratio of 1:1. Cf. *Qatar v. Bahrain (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1994, 118, Dissent Oda, 144-145, 147, (*Jurisdiction and Admissibility*) Judgment, ICJ Rep. 1995, 9-10, 12, 25, Dissent Oda, 42, (*Merits*) Judgment, ICJ Rep. 2001 (in press), paras

32-34, 109, 180-183, 214, Dissent Torres Bernardez, paras 45-58, 223-226, 248, 251, 362, 462-479, 507, 511; Oral Hearings, CR 94/4, 45 [Counsel Bowett, 4 March 1994], CR 94/5, 43 [Counsel de Arechaga, 7 March 1994], CR 2000/5, 19 [Agent Al-Muslemeni, 29 May 2000], CR 2000/10, 15-16 [Counsel Queneudec, 6 June], CR 2000/14, 33-38 [Counsel Reisman, 13 June], CR 2000/15, 8, 14-16 [14 June], 37 [Counsel Weil], CR 2000/16, 41-42, 45-46, 48-50 [Reisman, 15 June], CR 2000/19, 17-19 [Queneudec, 22 June], CR 2000/25, 7 [Reisman, 29 June 2000] <<http://www.icj-cij.org>>.

On Indonesia's archipelagic regime and baselines, see *Indonesia/Malaysia (Merits)* Judgment, ICJ Rep. 200- <<http://www.icj-cij.org>> [Regime of Islands – Sovereignty Over Island Territory *infra*].

See also Equitable Maritime Boundary Delimitation – Mineral Resource Factor, *Portugal v. Australia East Timor* Judgment, ICJ Rep. 1995, 90, *infra*.

On the 1961 Baselines Act No. 3046 of the Philippines, as Amended by the 1968 Act No.5446 [*The Law of the Sea – Practice of Archipelagic States* 75-83 (UN 1992)], see *Indonesia/Malaysia (Intervention)* Oral Hearings, CR 2001/1, 17-18 [Co-Agent Magallona, 25 June], CR 2001/2, 31 [Sir Elihu Lauterpacht, 26 June], CR 2001/3, 19 [Magallona, 28 June 2001] <<http://www.icj-cij.org>>.

See also references to Article 47 under Internal Waters, Territorial Sea and Baselines – Straight Baselines *supra*.

Archipelagic Waters

1982 LOSC, Article 2(1) and Articles 49-54:

Tunisia/Libya (Merits) Dissent Evensen, ICJ Rep. 1982, 283; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 593, para.393, Dissent Oda, 734 n.1, 745 n.1, 746, 756; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/14, 36 [Counsel Reisman, 13 June 2000].

See also Internal Waters, Territorial Sea and Baselines – The Right and Meaning of Innocent Passage *supra*.

Archipelagic Sea Lanes Passage

1982 LOSC, Articles 53-54:

Qatar v. Bahrain (Merits) Dissent Torres Bernardez, para.462, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/14, 36 [Counsel Reisman, 13 June 2000].

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], para.50 n.49 <<http://www.itlos.org>>.

See also pronouncements listed under the Regime of Islands, Coastal Archipelago *infra*, which provided an important incentive for early archipelagic practice of Indonesia and the Philippines.

EXCLUSIVE ECONOMIC (/FISHERY) ZONE

1958 HSFC, ARTICLE 7

1982 LOSC, PART V, ARTICLES 55-75, PART VI, ARTICLES 77-85, PART VII

1992 UNCED RIO AGENDA 21, CHAPTER 17

1995 SSA

Evolution

Anglo/Norwegian Fisheries Individual O. Alvarez, ICJ Rep. 1951, 150; *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 107-118; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 224-226; *M/V Saiga* Judgment, [38 ILM 1323 (1999)], Separate O. Vukas, para.16.

On 100-mile zone sought in the Behring Sea by the Russian Ukase of 1821, as protested by Britain and the USA, see *Nuclear Tests Pleadings* (Australia), 339-340 [Memorial]; 1985 *Guinea/Guinea-Bissau* Award, para.80 [25 ILM 287 (1986)].

On Declaration of Panama of 3 October 1939 which proclaimed a 300-Mile Zone around the American Continent [34 AJIL Supp. 1, 17 (1940)], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 355 [Norway's Counter-Memorial], Vol.II, 403, 744-747 [UK Reply]; *Fisheries Jurisdiction (Merits)* Separate Os de Castro, ICJ Rep. 1974, 82, 225; *Fisheries Jurisdiction* Pleadings (UK), 327 [Memorial (Merits)], (FRG), 214 [Memorial (Merits)].

On Truman Proclamations on the Continental Shelf and on Coastal Fisheries in Certain Areas of the High Seas of 28 September 1945 [40 AJIL 45-47 (1946); *Anglo/Norwegian* Pleadings, Vol.II, 252, Vol.III, 747; *Gulf of Maine* Pleadings, Vol.II, 133-147], see *Anglo/Norwegian Fisheries* Dissent McNair, ICJ Rep. 1951, 159; Pleadings, Vol.I, 357 [Norway's Counter-Memorial], Vol.II, 403-405, 748 [UK Reply]; *Fisheries Jurisdiction (Merits)* Declarations Nagendra Singh, ICJ Rep. 1974, 43, 216, Separate Os de Castro, 74, 82-84, 87, 88, 91, 98, 225, Separate Os Sir Humphrey Waldock, 106-107, 109, 227; Pleadings (FRG), 215-216 [Memorial (Merits)], 292-293 [Agent Jaenicke, 28 March 1974]; *Aegean Sea (Jurisdiction)* Separate O. Tarazi, ICJ Rep. 1978, 57, Dissent de Castro, 63-64; Pleadings, 258 [Greece's Memorial (Jurisd.)], 453, 457 [Counsel O'Connell, 16 Oct 1978]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 278-279; Pleadings, Vol.II, 33, 70, 77, 95 [US Memorial], Vol.III, 146-147, 172-173 [Canada's Counter-Memorial], Vol.IV, 115, 118 [US Counter-Memorial]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 42, Separate Os Sette-Camara, 62, 70, Mbaye, 94; Pleadings, Vol.I, 446 [Malta's Memorial], Vol.II, 360 [Malta's Counter-Memorial], Vol.III, 151 [Malta's Reply], 441 [Counsel Brownlie, 3 Dec 1984]; *Gulf of Fonseca* Separate O. Bernardez, ICJ Rep. 1992, 632; *Denmark v. Norway*

Separate O. Oda, ICJ Rep. 1993, 97; *Spain v. Canada* Separate O. Oda, para.12, ICJ Rep. 1998, 480; *Qatar v. Bahrain (Merits)* Separate O. Oda, ICJ Rep. 2001 (in press), paras 14, 31.

See also Equitable Maritime Boundary Delimitation, Truman Proclamation *infra*.

On Iceland's Law No.44 Concerning the Scientific Conservation of the Continental Shelf Fisheries of 5 April 1948 [UN Doc. ST/LEG/SER.B/1, 12 (1951), SER.B/6, 513 (1957)]; *Anglo/Norwegian Fisheries* Pleadings, Vol.III, 696; as Amended by Law No.81 of 1952, SER.B/8, 10 (1959); *Fisheries Jurisdiction* Pleadings (UK), 45], see *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 104; *Fisheries Jurisdiction (Interim Measures)* Dissents Padilla Nervo, ICJ Rep. 1972, 27, 43, (*Jurisdiction*) Judgments, ICJ Rep. 1973, 8, 55, Dissents Nervo, 40, 85, (*Merits*) Judgments, ICJ Rep. 1974, 10-11, 182-183, Separate O. Dillard, 64, Separate Os de Castro, 72-75, 84, 103, 225, Separate Os Waldock, 106-111, 122-123, 227, Dissent Petren, 247; *Fisheries Jurisdiction* Pleadings (UK), 27-28 [Iceland's Memorandum], 462 [Counsel Silkin, 25 March 1974], 490-491 [Counsel Slynn, 29 March 1974], (FRG), 3-4 [Application], 242 [Memorial (Merits)].

For references to early practice of Iceland, see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 52-53, 107, 117 [Denmark's Memorial], 210, 226-229, 447 [Norway's Counter-Memorial]; PCIJ Series C, No.63, 637-643, 671 [Denmark's Reply], 1208 [Norway's Reply].

See also Internal Waters, Territorial Sea and Baselines – Straight Baselines *supra*.

On 1954 *In Re Sauger et al. (The Olympic Challenger, The Olympic Victor, The Olympic Lightning, The Olympic Fighter, The Olympic Conqueror)* Judgment of Peru's Tribunal of Paita [49 AJIL 575 (1955)], see *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 107 n.4. Cf. M.M. Whiteman's *Digest*, Vol.4, 1060-1070 (1965), also noting (1200-1201), that by three identical Aide Memoires to Chile, Ecuador and Peru (CEP) of 13 May 1955, the United States proposed adjudication by the ICJ of the "basic legal controversy" with respect to the 200-mile zone claimed by CEP which, however, replied that such a referral had to be deferred as it involved "aspects of international law not yet defined".

On Canada's Act of 26 June 1970 [9 ILM 553 (1970)] and Order-in-Council P.C. 1971-366 of 25 February 1971, extending its EFZ beyond 12 miles, see *Gulf of Maine* Pleadings, Vol.I, 100, 201 [Canada's Memorial], Vol.V, 384, 484 n.4, 516, 529 [US Reply], Vol.VI, 294 [Counsel Colson, 12 April 1984].

On Canada's 1970 Arctic Waters Act, see Protection and Preservation of the Marine Environment in this section *infra*.

On Canada's reservation of 7 April 1970 to its Optional Clause Declaration, under Article 36(2) of the ICJ Statute, which excluded from the ICJ jurisdiction

“disputes arising out of or concerning jurisdiction or rights claimed or exercised by Canada in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment” [9 ILM 598-615 (1970)], see *Gulf of Maine* Pleadings, Vol.V, 382-385, 515, 529-537 [US Reply], Vol.VI, 368 [Counsel Rashkow, 16 April 1984]; *Nicaragua v. USA (Jurisdiction and Admissibility)* Separate Os Oda, ICJ Rep. 1984, 494, Sir Robert Jennings, 551-552; *Spain v. Canada Fisheries (Jurisdiction)* Separate O. Kooymans, paras 8-9, ICJ Rep. 1998, 491-492, Dissents Bedjaoui, 516-517, paras 2-4, 67, Torres Bernardez, 689-691, paras 288-293, at 696, paras 309-310, at 720, para.383, at 733-735, paras 423, 430; Pleadings, 277 [Canada’s Counter-Memorial], 432 [Counsel Rodriguez, 9 June 1998], 447, 456 [Counsel Brotons, 9 and 10 June], 524 [Counsel Willis, 12 June 1998] <<http://www.icj-cij.org>>.

On special/preferential rights under the 1958 HSFC based upon exceptional dependence on coastal fisheries, see *North Sea* Pleadings, Vol.II, 94 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 126 [Agent Riphagen, 30 Oct], 198-199 [Counsel Shigeru Oda, 5 Nov], 248 [Reply by Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Interim Measures)* Orders, ICJ Rep. 1972, 16, 34, Dissents Padilla Nervo, 23-24, 26-27, 40-41, 43-44, (*Jurisdiction*) Judgments, ICJ Rep. 1973, 7, 19-20, 52, 63-65, Dissents Padilla Nervo, 38, 83, (*Merits*) Judgments, ICJ Rep. 1974, 7, 12-13, 14, 16, 20-22, 23-32, 34 (para.79), 179, 184-185, 188, 189-201, 205 (para.77), Declarations Ignacio-Pinto, 35, 38, 208, 211, Declarations Nagendra Singh, 40, 43, 213, 216, Joint Separate Os of Forster, Bengzon, Jiménez de Aréchaga, Nagendra Singh and Ruda, 50-52, 222-224, Separate O. Dillard, 53-54, 63-66, Separate Os de Castro, 72-76, 84-85, 98-100, 225, Separate Os Waldock, 109-115, 120-125, 227-229; *Fisheries Jurisdiction* Pleadings (UK), 331-344, 357-359 [Memorial (*Merits*)], 457-476 [Counsel Silkin, 25 March 1974], 477 [Questions of Judge Waldock], 494-505 [Replies Counsel Slynn, 29 March 1974], (FRG), 219-229, 249-257 [Memorial (*Merits*)], 350-351 [Questions of Jiménez de Aréchaga and Waldock, 28 March 1974], 352-366 [Replies by Agent Jaenicke, 2 April 1974], 367 [Question Waldock], 480 [Reply]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 223-224; *Gulf of Maine* Pleadings, Vol.II, 71-72 [US Memorial], Vol.III, 196, 207-208, 218 n.25, 220 [Canada’s Counter-Memorial], Vol.IV, 67-68, 73, 76 [US Counter-Memorial], Vol.VI, 46 [Agent Legault, 3 April 1984], 91, 94 [Counsel Binnie, 4 April], 380-385 [Counsel Feldman, 16 April], Vol.VII, 84 [Binnie, 4 May], 174 [Feldman, 9 May 1984]; *Libya/Malta* Pleadings, Vol.I, 443-444, 479 [Malta’s Memorial], Vol.II [Libya’s Counter-Memorial], 281, 366-367 [Malta’s Counter-Memorial], Vol.III, 362 [Counsel Weil, 28 Nov 1984]; *Denmark v. Norway* Dissent Fischer, ICJ Rep, 1993, 310, 312; Denmark’s

Memorial, para.305, Denmark's Reply, para.82; *Spain v. Canada* Separate O. Oda, ICJ Rep. 1998, 482, para.14.

On denunciation by Senegal in 1971 of the 1958 TSC and HSFC, see *Aegean Sea Pleadings*, 482 n.1 [Counsel Pinto, 16 Oct 1978].

See also Continental Shelf – Evolution *infra*.

Customary Law Status

Fisheries Jurisdiction (Interim Measures) Orders, ICJ Rep. 1972, 15, 33, Joint Declarations Vice-President Ammoun and Judges Forster and Jiménez de Aréchaga, 18, 36, Dissents Padilla Nervo, 23, 27, 40, 44, (*Jurisdiction*) Judgments, ICJ Rep. 1973, 5-6, 7, 9, 17-18, 20, 51-52, 54, 55, 61-62, 64, Declarations President Sir Muhammad Zafrulla Khan, 23, 67, Separate Os Sir Gerald Fitzmaurice, 24-30, 68-74, Dissents Padilla Nervo, 39, 41, 43-44, 46, 84, 86, 88, 91, (*Merits*) Judgments, ICJ Rep. 1974, 6-7, 14, 21-22, 23-24, 29, 33, 178-179, 186, 190, 192, 198, 203, Declarations Ignacio-Pinto, 36-38, 209-211, Declarations Nagendra Singh, 39, 43, 212, 216, Joint Separate Os, 45-52, 217-224, Separate O. Dillard, 55-61, Separate O. de Castro, 72-104, 225, Separate Os Waldock, 116-125, 227-229, Dissents Gros, 126-147, 234-235, Dissents Petren, 150-163, 240-242, Dissents Onyeama, 171-173, 246; *Fisheries Jurisdiction Pleadings (UK)*, 353-357, 366-372 [Memorial (*Merits*)], 451 [Questions of Judges Jiménez de Aréchaga and Dillard, 25 March 1974], 457-476 [Counsel Silkin], 479-493 [Replies Counsel Slynn, 29 March 1974], (FRG), 233-241, 255-256 [Memorial (*Merits*)], 292, 297-302, 310 [Agent Jaenicke, 28 March 1974].

For reliance on the *Fisheries Jurisdiction* Judgments, see *UNCLOS III Off. Rec.*, Vol.II, Statements of: Goerner (GDR), 22nd Meeting-31 July 1974, 173; Rosenne (Israel), 178; Jaenicke (FRG), 24th Meeting-1 August, 191-192; Sir Roger Jackling (UK), 25th Meeting-5 August, 200; Ogiso (Japan, 28th Meeting-6 August, 217-218; Andersen (Iceland), 30th Meeting-7 August 1974, 229 (1975).

The inclusion by the *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 29-37, of the continental shelf (as now extending beyond 200 miles) into the notion of "territorial status" of state, may lead logically to the same propensity in the case of the 200-mile zone. Cf. *Aegean Sea Pleadings*, 458-459 [Counsel O'Connell, 16 Oct 1978]. But see 1978 Dissents de Castro, 63-71, and Stassinopoulos, 78-80. Cf. also *Libya/Malta Pleadings*, Vol.I, 443 [Malta's Memorial], Vol.II, 360 [Malta's Counter-Memorial], Vol.III, 445 [Counsel Brownlie, 3 Dec 1984]; *Gulf of Fonseca Oral Hearings*, C 4/CR 91/4 [trans.], 44 [Counsel Weil, 18 April 1991]; *Spain v. Canada Pleadings*, 239-240, 250, 256, 273 [Canada's Counter-Memorial].

Nuclear Tests (Interim Measures) Dissents Gros, ICJ Rep. 1973, 122, 156; *Nuclear Tests Joint Dissents Onyeama, Dillard, Jiménez de Aréchaga and Sir*

Humphrey Waldo, ICJ Rep. 1974, 367, 519; *Aegean Sea Pleadings*, 337-338 [Counsel O'Connell, 10 Oct 1978], 423 [Counsel Weil, 13 Oct 1978]; *Tunisia/Libya (Merits) Judgment*, ICJ Rep. 1982, 37, 74, Separate O. de Arechaga, 114-116, Dissents Oda, 157, 172, 215-216, 222-234, 248-249, Evensen, 283-288, 296-297, 319-320; Pleadings, Vol.IV, 420-421 [Counsel Sir Robert Jennings, 16 Sep 1981]; *Gulf of Maine Judgment*, ICJ Rep. 1984, 278, 282-283, 291, 294, Dissent Gros, 361, 364, 367-369, 371-375; Pleadings, Vol.I, 118, 129 [Canada's Memorial], Vol.II, 53-54 [US Memorial], Vol.III, 174, 192, 224 [Canada's Counter-Memorial], Vol.IV, 67-68, 87-88 [US Counter-Memorial], Vol.V, 403-404, 407 [US Reply], Vol.VI, 91 [Counsel Binnie, 4 April 1984], Vol.VI, 245-246 [Agent Robinson, 11 April], Vol.VII, 88 [Binnie, 4 May 1984], 147-149 [Agent Robinson, 9 May 1984]; *Libya/Malta (Merits) Judgment*, ICJ Rep. 1985, 32-33, Separate Os Valticos, 104-105, 113, Mbaye, 98-99, Dissents Mosler, 119, Oda, 126, 128-129, 153, 155-157; Pleadings, Vol.I, 490-491 [Malta's Memorial], Vol.II, 282, 362 [Malta's Counter-Memorial], Vol.III, 151-152 [Malta's Reply], 363, 413-415 [Counsel Weil, 28 and 30 Nov 1984], Vol.IV, 77-89 [Counsel Queneudec, 10 and 11 Dec 1984], 354-356, 370-373 [Weil, 12 Feb 1985], 443-445 [Queneudec, 21 Feb 1985]; *Guinea-Bissau v. Senegal (Provisional Measures) Separate O. Shahabuddeen*, ICJ Rep. 1990, 76-77, *Arbitral Award Judgment*, ICJ Rep. 1991, 59, 64, 66, 73, Separate Os Oda, 81-85, 86-87, 89, Ni, 96-97, 104, Dissents Weeramantry, 150, 171-173, Thierry, 177-178; *Nauru v. Australia (Preliminary Objections) Judgment*, ICJ Rep. 1992, 30, para.67; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 608, 617, para.432(3), Dissent Oda, 735, 760-761; *Denmark v. Norway Judgment*, ICJ Rep. 1993, 46, 54-55, 59, 61, 69, Separate Os Oda, 92-101, 110, Shahabuddeen, 198-199, Weeramantry, 257; Oral Hearings, CR 93/6, 38 [Agent Haug, 18 Jan 1993]; *Nuclear Weapons (WHO Request) Dissent Koroma*, ICJ Rep. 1996, 223; *Spain v. Canada Separate O. Oda*, ICJ Rep. 1998, 482, para.14, Dissent Torres Bernardez, 609, para.77, at 683, para.271, at 714, para.366; *Cameroon v. Nigeria Oral Hearings*, CR 94/2, 44-45 [Counsel Crawford, 3 March 1998], CR 98/4, 55-56 [Counsel Highet, 6 March 1998].

1977 *Anglo/French Continental Shelf Decision* [18 ILM 397 (1979)], paras 6, 45-46; *Iceland/Norway Conciliation* [20 ILM 804-805 (1981)]; 1985 *Guinea/Guinea-Bissau Award* [25 ILM 251 (1986)]; 1986 *Canada/France Award*, para.59 [see Fisheries *infra*]; 1989 *Guinea-Bissau/Senegal Award* [94 RGDIP 268-271 (1990)], paras 83-85; 1992 *Canada/France Award*, paras 14-15 [see Equitable Maritime Boundary Delimitation *infra*].

Coastal State's Rights over Resources
1982 LOSC, Article 56(1):

Fisheries Jurisdiction (Interim Measures) Joint Declarations, ICJ Rep. 1972, 18, 36, Dissents Padilla Nervo, 22-27, 39-44, (*Jurisdiction*) Judgments, ICJ Rep. 1973, 9, 55, Dissents Padilla Nervo, 37-46, 82-91, (*Merits*) Judgments, ICJ Rep. 1974, 14-15, 186-187, Separate O. Dillard, 59, 64-65, Separate Os de Castro, 73-74, 88, 225; Pleadings (UK), 465 [Counsel Silkin, 25 March 1974], (FRG), 235-237 [Memorial (*Merits*)]; *Tunisia/Libya (Merits)* Dissents Oda, ICJ Rep. 1982, 223-234, 249, Evensen, 284-287; *Gulf of Maine* Judgment, ICJ Rep. 1984, 282-283, 294, 302, Dissent Gros, 367-381; Pleadings, Vol.I, 118-119 [Canada's Memorial], Vol.III, 54, 172-177, 218, 224 [Canada's Counter-Memorial], Vol.V, 386-391, 412, 416 [US Reply], Vol.VI, 88 [Counsel Binnie, 4 April 1984], Vol.VII, 190, 200 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 30-33, 55, Separate Os Sette-Camara, 69-71, Mbaye, 98, Dissent Oda, 156-157; Pleadings, Vol.I, 490-491 [Malta's Memorial], Vol.III, 151-152 [Malta's Reply]; *Guinea-Bissau v. Senegal (Provisional Measures)* Dissent Thierry, ICJ Rep. 1990, 82-83, *Arbitral Award* Separate O. Vice-President Oda, ICJ Rep. 1991, 86, 89-90; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/7 [trans.], 5-6 [Counsel Weil, 23 April 1991], CR 91/46, 35 [Counsel Lauterpacht, 11 June 1991]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 54-55, 59, Separate Os Shahabuddeen, 198-199, Ajibola, 287-289; Norway's Counter-Memorial, paras 206-244; Oral Hearings, CR 93/9, 83 [Question 1 Oda, 21 Jan 1993], GJM 93/5 [Denmark's Reply, 27 Jan 1993]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.170 <<http://www.icj-cij.org>>.

1986 *Canada/France* Award – see Fisheries *infra*; *United States – Import Prohibition of Certain Shrimp and Shrimp Products* Report AB-1998-4, WTO Appellate Body, President F. Feliciano, WT/DS58/AB/R, 12 October 1998, paras 130-131 [AB]; 1997 *M/V Saiga (Prompt Release)* Judgment [37 ILM 360 (1998)], paras 56-59, 63-73 – included bunkering (refuelling) of fishing vessels into the coastal state's rights; *M/V Saiga (Provisional Measures)* Separate O. Laing [37 ILM 1218 (1998)], para.19; *M/V Saiga* Judgment, [38 ILM 1323 (1999)], paras 110-138, 151, Separate Os Zhao, Nelson, Anderson.

Production of Energy from the Waters, Currents and Winds
1982 LOSC, Article 56(1):

UK/France Minquiers and Ecrehos ICJ Rep. 1953, 47 – Judgment, 71, Individual O. Carneiro, 89, 109; Pleadings, Vol.I, 729-735, including map [France's Rejoinder], Vol.II, 186-188 [Counsel Harrison, 24 Sep 1953], 407-409 [Agent Gros, 8 Oct 1953]; *Tunisia/Libya (Merits)* Dissents Oda, ICJ Rep. 1982, 228,

Evensen, 284; *Gulf of Maine* Pleadings, Vol.III, 224-225 [Canada's Counter-Memorial], Vol.IV, 153 n.1 [US Counter-Memorial], Vol.V, 71-72, 345 [Canada's Reply].

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], para.38.

Protection and Preservation of the Marine Environment
1982 LOSC, Article 56(1)(b)(iii):

Aegean Sea Pleadings, 442 [Counsel O'Connell, 16 Oct 1978]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 224-225, 228; *Gulf of Maine* Judgment, ICJ Rep. 1984, 279, 344; Pleadings, Vol.I, 35 n.7, 106-107 [Canada's Memorial], Vol.II, 34-38 [US Memorial], Vol.III, 58, 137 n.26, 170, 352-357 [Canada's Counter-Memorial], Vol.IV, 152-153, 166, 259-271 [US Counter-Memorial], Vol.V, 64-65, 342-343 [Canada's Reply], 381 [US Reply], Vol.VI, 450-455 [Counsel Colson, 19 April 1984], Vol.VII, 117, 123-124 [Counsel Fortier, 5 May], 154, 269 [Agent Robinson, 9 and 11 May 1984].

The Queen v. The Secretary of State for Trade and Industry Ex Parte Greenpeace Ltd. Judgment, Justice Maurice Kay, Case No. CO/1336/1999; *M/V Saiga* Judgment, [38 ILM 1323 (1999)], para.130, 133-134, Separate O. Laing, paras 38, 45; *Ireland v. UK Mox Plant (Provisional Measures)* Oral Hearings, ITLOS/PV.01/07, 25-26 [Counsel Goldsmith, 19 Nov 2001] <<http://www.itlos.org>>.

On Canada's Arctic Waters Pollution Prevention Act of 26 June 1970 [9 ILM 543 (1970)], see *Gulf of Maine* Pleadings, Vol.III, 358 [Canada's Counter-Memorial], Vol.IV, 115 [US Counter-Memorial], Vol.V, 384, 514-515, 518, 523, 529-537 [US Reply], Vol.VI, 368 [Counsel Rashkow, 16 April 1984], Vol.VII, 204 [Counsel Stevenson, 9 May 1984]. On 1970 *The Arrow* (which prompted this Act), see Vol.III, 359-360.

On Canada's 1970 Optional Clause Declaration, see *supra*.

On Iceland's Policy Statement of 14 July 1971, announcing a 50-mile EFZ as of 1 September 1972 and a 100-mile pollution prevention zone (based on Canada's 1970 Arctic Waters Pollution Prevention Act), see *Fisheries Jurisdiction (UK v. Iceland)* Separate O. Onyeama, ICJ Rep. 1974, 168, 169; Pleadings (UK), 6, 13, 25 [Application], (FRG), 6 [Application]; *Denmark v. Norway* Separate O. Oda, ICJ Rep. 1993, 94.

Rights over the Sea-Bed and Subsoil

1982 LOSC, Part V, Article 56(1)(3) cross-referring to Part VI: See Continental Shelf *infra*.

Outer Limit

1982 LOSC, Article 57:

Fisheries Jurisdiction (Interim Measures) Dissents Padilla Nervo, ICJ Rep. 1972, 27, 44; (*Merits*) Separate Os de Castro, 88, 225; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 114-116, Dissents Oda, 222, 227, 233-234, 249, 253, 270, Evensen, 284-287, 296-297, 315; *Gulf of Maine* Judgment, ICJ Rep. 1984, 282-283; Pleadings, Vol.I, 118, 124 [Canada's Memorial], Vol.III, 54, 148-149, 175, 210-211 [Canada's Counter-Memorial], Vol.V, 22-23, 27 [Canada's Reply], 407-408, 410 [US Reply], Vol.VI, 17 [Counsel McGuigan, 2 April 1984], Vol.VII, 196 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 32, 35, 46, Separate O. Sette-Camara, 69-71; Pleadings, Vol.I, 105-106 [Libya's Memorial], 490-491 [Malta's Memorial], Vol.II, 100-101 [Libya's Counter-Memorial], 371 [Malta's Counter-Memorial], Vol.III, 170 [Malta's Reply]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 59, 69; Norway's Rejoinder, paras 365-368; Oral Hearings, CR 93/4, 14, 30 [Counsel Bowett, 14 Jan 1993]; *East Timor* Oral Hearings [trans.], CR 95/3, 74-77 and map [Co-Agent Teles, 31 Jan 1995]; *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 445, para.21, Dissent Torres Bernardez, 609, para.77.

Jus Communicationis

1982 LOSC, Part V, Article 58, Part VII, Articles 87-115:

Aegean Sea Pleadings, 458-459 [Counsel O'Connell, 16 Oct 1978]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 225-227; *Gulf of Maine* Pleadings, Vol.V, 386-387, 412 [US Reply], Vol.VII, 200, 204 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Merits)* Separate O. Sette-Camara, ICJ Rep. 1985, 69; *Nicaragua v. USA Military and Paramilitary Activities (Merits)* Judgment, ICJ Rep. 1986, 111-112, para.213; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 761.

Canada/France Award [31 ILM 1175 (1992)], para.88, Dissent Weil [*id.* 1219], paras 51-52; 1997 *M/V Saiga (Prompt Release)* Judgment [37 ILM 360 (1998)], para.58 – suggested inclusion of bunkering (refuelling) of fishing vessels into the freedom of navigation, Dissents President Mensah, paras 6, 21-22, Wolfrum and Yamamoto, Anderson, Joint Dissent (Park, Nelson, Rao, Vukas and Ndiaye); *M/V Saiga* Judgment, [38 ILM 1323 (1999)], paras 28-30, 91, 93, 97, 123-136, 137-138 (declined to hold whether bunkering falls within the

freedom of navigation), Separate Os Anderson, Vukas, Laing; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Anderson, para.4; Ireland's Request, paras 36-38 <<http://www.itlos.org>>.

See also High Seas *infra*.

Equality-of-Uses Principle

1958 HSC, Article 2; 1982 LOSC, Part V, Articles 56(2) and 58(3), Part VII, Article 87(2):

North Sea Pleadings, Vol.II, 66 [Agent Jaenicke, 25 Oct 1968, referring to “reconciling the different uses of the North Sea”], 129-130 [Agent Riphagen, 30 Oct 1968]; *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 29-31, 34 (para.79(4)(c)), 198-199, 206 (para.77(4)(c)), Declarations Nagendra Singh, 40, 213, Separate O. Dillard, 56-57, 69-70; *Pleadings (UK)*, 497-499 [Counsel Slynn, 29 March 1974]; *Nuclear Tests* Joint Dissents, ICJ Rep. 1974, 370, 522, Dissent de Castro, 390; *Pleadings (Australia)*, 338-339 [Memorial], (NZ), 430-431 [Replies Agent to Questions by Waldock, 15 July 1974]; *Aegean Sea Pleadings*, 459 [Counsel O’Connell, 16 Oct 1978]; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 130, Dissent Oda, 178.

M/V Saiga Judgment [38 ILM 1323 (1999)], paras 121, 131, Separate Os Vukas, paras 6, 14, Laing, paras 3, 18, 37-38, 55.

Residual Rights

1982 LOSC, Part V, Article 59:

M/V Saiga Judgment [38 ILM 1323 (1999)], paras 125, 137, Separate Os Vukas, paras 16, 21. Laing, para.55.

Artificial Islands, Installations and Structures

1958 CSC, Article 5; 1982 LOSC, Part V/VI, Articles 60/80, Part XIII, Articles 258-262:

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Individual O. Alvarez, 43; *North Sea Pleadings*, Vol.II, 96-97 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 130 [Agent Riphagen, 30 Oct 1968]; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 10, para.30; *Pleadings*, 455-457 [Counsel O’Connell, 16 Oct 1978]; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 115, 120-121, Dissent Oda, 228; *Libya/Malta Pleadings*, Vol.I, 81, 128 [Libya’s Memorial]; *Oil Platforms* – see High Seas, Freedom of the High Seas *infra*.

On MODU (drill ships and drill rigs, including semi-submersible rigs and jack-up rigs), see *Great Belt* case – Straits Used for International Navigation *supra*; High Seas – Status of Ships/Criminal Jurisdiction (Definition of Ships) *infra*.

M/V Saiga Judgment, [38 ILM 1323 (1999)], para.127, Separate Os Nelson, Laing, paras 38, 50.

Military Installations

1977 *Anglo/French* Decision [18 ILM 397 (1979)], para.161; *Aegean Sea* Pleadings, 455-456 [Counsel O’Connell, 16 Oct 1978]; *Oil Platforms* Oral Hearings, CR 96/14, 20 [Zeinoddin, 19 Sep 1996], CR 96/16, 10 [Agent Matheson, 23 Sep 1996].

Rational Conservation and Optimum Utilization of Fisheries

1958 HSC and HFSC; 1982 LOSC, Part V, Articles 61-62, Part VII, Articles 116-120:

Fisheries Jurisdiction (Merits) Judgments, ICJ Rep. 1974, 31, 34 (para.79(4)(d)), 200, 206 (para.77(4)(d)), Declarations Nagendra Singh, 40, 213, Separate O. Dillard, 68-69; Pleadings (UK), 359-366 [Memorial (Merits)]; *Tunisia/Libya (Merits)* Dissents Oda, ICJ Rep. 1982, 226, 228-231, Evensen, 284; *Gulf of Maine* Judgment, ICJ Rep. 1984, 278, 340-344; Pleadings, Vol.I, 90, 99-103, 118 [Canada’s Memorial], Vol.II, 23, 52-61, 72-76 [US Memorial], Vol.III, 83-89, 141-146, 150-162, 186-198 [Canada’s Counter-Memorial], Vol.IV, 45, 134-151 [US Counter-Memorial], Vol.V, 74-76, 99-126 [Canada’s Reply], 416, 432-439 [US Reply], Vol.VI, 91, 95 [Counsel Binnie, 4 April 1984], 104 [Counsel Bowett, 5 April], 174 [Counsel Feldman, 9 May 1984], 203 [Counsel Stevenson]; *Libya/Malta* Pleadings, Vol.III, 327-328 [Counsel Lauterpacht, 27 Nov 1984], Vol.IV, 139 [Counsel Lucchini, 12 Dec], Vol.VII, 245-263 [Counsel Colson, 11 May 1984]; *Guinea-Bissau v. Senegal (Provisional Measures)* Order, ICJ Rep.1990, 65, 67-68, Separate O. Evensen, 73, Dissent Thierry, 80-83; Oral Hearings, CR 90/1, 43 [Questions 1/2 Judge Oda, 12 Feb 1990], 44 [Questions Judges Schwebel, Guillaume], CR 90/2, 13, 18 and Annex (map) [Co-Agent Bowett], CR 91/3, 81-83 [Counsel Highet, 4 April 1991]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 54-55, 70-72; *Spain v. Canada Fisheries (Jurisdiction)* Judgment, ICJ Rep. 1998, 458-466, paras 62-84, Separate Os President Schwebel, 470-473, Oda, 474-485, Dissents Vice-President Weeramantry, 506, para.39, Bedjaoui, 540-552, paras 62-97, Ranjeva, 561-568, paras 22-38, Vereshchetin, 577-580, paras 14-21, Torres Bernardez, 683-685,

paras 272-278, at 693-706, paras 302-340, at 715-717, paras 372-376; Pleadings, 95-99 [Spain's Memorial], 248-258, 274-279 [Canada's Counter-Memorial], 490-500 [Agent Kirsch, 11 June 1998], 522-526 [Counsel Willis], 527-537 [12 June], 616-624 [17 June 1998].

On Canada's 1970 Optional Clause Declaration, see *supra*; and on its 1994 Declaration, see Settlement of Disputes – Automatic Exemption of Fishery Disputes *infra*.

1986 *Canada/France Award* – see Fisheries *infra*; *US – Import Prohibition of Certain Shrimp and Shrimp Products* Report AB-1998-4 – see Protection and Preservation of the Marine Environment, Obligation to Protect and Preserve the Marine Environment *infra*; *Panama v. France Camuco Judgment*, ITLOS Case No.5, *Seychelles v. France M/V Monte Confurco Judgment*, ITLOS Case No.6, and *Belize v. France Grand Prince Judgment*, ITLOS Case No.8 – see Settlement of Disputes, Prompt Release of Vessels and Crews *infra*; *EC/Chile Swordfish* – see Presential Sea *infra*.

Traditional Fishing Rights

1982 LOSC, Part V, Article 62(3):

Fisheries Jurisdiction (Merits) Judgments, ICJ Rep. 1974, 24, 27-33, 34 (para.79), 192-193, 196-203, 205 (para.77), Joint Separate Os, 50-51, 222-223, Separate O. Dillard, 53-54; *Gulf of Maine Judgment*, ICJ Rep. 1984, 278, 341-342; Pleadings, Vol.III, 196, 220 [Canada's Counter-Memorial], Vol.IV, 135-136 [US Counter-Memorial], Vol.V, 114-115, 119 [Canada's Reply], 386, 422 [US Reply], Vol.VI, 92, 95, 100 [Counsel Binnie, 4 April 1984].

1986 *Canada/France Award*, Dissent Weil – see Fisheries *infra*; 1992 *Canada/France Award* – see Equitable Maritime Boundary Delimitation *infra*.

Rights of Land-Locked and Geographically Disadvantaged States (GDS)

1982 LOSC, Part V, Articles 69-72:

Fisheries Jurisdiction (Merits) Separate O. Dillard, ICJ Rep. 1974, 57; Pleadings (FRG), 232 [Memorial (Merits)], 303-305, 309, 310 [Agent Jaenicke, 28 March 1974]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 226, 228, 256; *Gulf of Maine* Pleadings, Vol.VI, 255 [11 April 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 41, Separate O. Sette-Camara, 71, Dissent Oda, 155; Pleadings, Vol.I, 480-482, 554-569 [Malta's Memorial], Vol.II, 68-71 [Libya's Counter-Memorial], Vol.III, 147-148, 166 [Malta's Reply]; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 761.

1999 *Eritrea/Yemen (Phase II)* Award, para.72 n.6 [40 ILM 983 (2001)]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], paras 38-39.

Definition of GDS

Article 70(2):

North Sea Pleadings, Vol.II, 160 [Agent Jacobsen, 1 Nov 1968]; *Fisheries Jurisdiction Pleadings* (FRG), 303 [Agent Jaenicke, 28 March 1974]; *Gulf of Fonseca Dissent Oda*, ICJ Rep. 1992, 761.

See also Continental Shelf – Revenue Sharing; Enclosed or Semi-Enclosed Seas *infra*.

Presential Sea (Mar Presencial):

On Argentina's Act No.23.968 of 14 August 1991 [*UN LOS Bull.* 20 (1992 No.20)] and Chile's General Law (Decree No.430) on Fishing and Acquaculture of 28 September 1991 as well as Fisheries Laws Nos 19.079 and 19.080 of 1991 (amending its General Law) [*Diario Oficial de la Republica de Chile* of 6 September 1991], see *Spain v. Canada Pleadings*, 44-45 [Spain's Memorial].

On Chile's Decree No.598, see *EC/Chile Swordfish* [Fisheries *infra*] <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

See also Continental Shelf; Equitable Maritime Boundary Delimitation; Fisheries; Charts and Geographical Coordinates; High Seas; Fisheries; Enclosed or Semi-Enclosed Seas; Protection and Preservation of the Marine Environment; Use of Force in Enforcement at Sea; Marine Scientific Research; Participation by International Organizations; and other relevant sections *infra*.

CONTINENTAL SHELF

1958 CSC

1982 LOSC, PART V, ARTICLES 56(3) AND 68, PART VI, ARTICLES 76-85, PART VII AND ANNEX II; FINAL ACT ANNEX II

Evolution

Anglo/Norwegian Fisheries Individual O. Alvarez, ICJ Rep. 1951, 150; *Pleadings*, Vol.I, 357-361, 366-367 [Norway's Counter-Memorial], Vol.II, 252-262 [texts], 402-407, 580-581, 747-752 [UK Reply], Vol.III, 257-262, 647 [Norway's Rejoinder], Vol.IV, 56-57 [Agent Sir Eric Beckett, 26 Sep 1951], 581 [texts]; *Minquiers and Ecrehos Pleadings*, Vol.II, 255-256 [Agent Gros, 30 Sep 1953], 353-354 [Counsel Fitzmaurice, 5 Oct 1953]; *North Sea Pleadings*, Vol.II, 242 [Reply by Counsel Waldock to Questions Fitzmaurice]; *Fisheries Jurisdiction Pleadings* (UK), 328-329 [Memorial (Merits)]; *Tunisia/Libya*

(*Merits*) Separate O. de Arechaga, ICJ Rep. 1982, 110-113, 120-121, Dissent Oda, 172-211.

1951 *Petroleum Development (Trucial Coast) Ltd. v. Sheikh of Abu Dhabi* Award – see Equitable Maritime Boundary Delimitation *infra*.

See also Exclusive Economic (Fishery) Zone – Evolution *supra*; Equitable Maritime Boundary Delimitation – Truman Proclamation *infra*.

Definition of the Outer Limit

1958 CSC, Article 1; 1982 LOSC, Article 76, and Final Act, Annex II:

North Sea ICJ Rep. 169, 3 – Judgment, 40, para.67, 49, para.89(b), Separate O. Padilla Nervo, 95-96, Separate O. Ammoun, 103, 106, 110-112, 123, Dissents Koretsky, 154, Tanaka, 179-181, 187, Morelli, 201, Sorensen, 249; *North Sea* Pleadings, Vol.I, 17, 61 [FRG Memorial], 201 [Counter-Memorial of Denmark], 351, 353 [NL Counter-Memorial], 393, 402, 409 [FRG Reply], 464, 512 [Common Rejoinder of Denmark/NL], Vol.II, 19 [Agent Jaenicke, 23 Oct 1968], 92-95, 99, 104-111 [Counsel Sir Humphrey Waldock, 29 Oct], 138 [Agent Riphagen, 31 Oct 1968], 162 [Questions Sir Gerald Fitzmaurice, 1 Nov], 172-174 [Jaenicke, 4 Nov], 197 [Counsel Oda, 5 Nov], 216 [Riphagen, 7 Nov], 244 [Reply by Waldock to Questions Fitzmaurice, 8 Nov], 273-274, 278 [Waldock, 11 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction)* Dissents Padilla Nervo, ICJ Rep. 1973, 45, 89-90, (*Merits*) Separate Os Waldock, ICJ Rep. 1974, 108, 227, Dissent Gros, 135; *Aegean Sea* Pleadings, 337-338 [Counsel O’Connell, 10 Oct 1978]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 46-49, Separate O. de Arechaga, 110-115, Dissents Oda, 165-166, 174, 179-184, 192; *Gulf of Maine* Judgment, ICJ Rep. 1984, 279, 311, Dissent Gros, 371-377; Pleadings, Vol.I, 47-56 [Canada’s Memorial], Vol.II, 10-15, 78-79 [US Memorial], Vol.V, 392-421 [US Reply]; *Libya/Malta* Pleadings, Vol.I, 450 [Malta’s Memorial]; 1989 *Guinea-Bissau/Senegal* Award [94 RGDIP 271 (1990)], para.85; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 50, Separate O. Oda, 97-99, 102-103.

1982 LOSC, Article 76(1)

Tunisia/Libya (Intervention) Separate O. Schwebel, ICJ Rep. 1981, 37, (*Merits*) Judgment, ICJ Rep. 1982, 47-49, 65, 73-74, Separate O. de Arechaga, 113-115, Dissents Oda, 211-222, 247-248, 253, Evensen, 284-287, 296, 315; Pleadings, Vol.I, 163-165 [Tunisia’s Memorial], Vol.V, 58-60 [Counsel Vallat, 1 Oct 1981], 244 [Judge Mosler’s Questions, 9 Oct], 261-262 [Counsel Jennings, 13 Oct], 362-363 [Vallat, 19 Oct], 502, 504 [Replies to Mosler, 21 Oct 1981]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 266, 273-274, Dissent Gros, 367, 374, 376; Pleadings, Vol.I, 47, 122-124 [Canada’s Memorial], Vol.III, 210 n.9, 214-215

[Canada's Counter-Memorial], Vol.V, 22-23 [Canada's Reply], 415-416 [US Reply], Vol.VI, 173 [Counsel Weil, 5 April 1984], Vol.VII, 191, 196, 198 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Intervention) Judgment*, ICJ Rep. 1984, 11, Dissent Sette-Camara, 78, 82, (*Merits*) Judgment, ICJ Rep. 1985, 30-33, 55, Separate Os Sette-Camara, 64-65, 68-71, Mbaye, 94-97, 99, Valticos, 104-105, Dissents Mosler, 119, Oda, 128, 151-157; Pleadings, Vol.I, 100-101, 105-108 [Libya's Memorial], 489-490 [Malta's Memorial], Vol.II, 101-102 [Libya's Counter-Memorial], 280-282, 289, 299 [Malta's Counter-Memorial], Vol.III, 150, 153-156, 161-163, 170 [Malta's Reply], 294-295 [Agent Mizzi, 26 Nov 1984], 363, 365, 388, 411-413 [Counsel Weil, 28-30 Nov], Vol.IV, 14 [Counsel Vallat, 6 Dec], 35-39 [Counsel Briggs, 7 Dec], 76-77, 86 [Counsel Queneudec, 10 and 11 Dec 1984], 362-368 [Weil, 12 Feb 1985], 428 [Counsel Jaenicke, 21 Feb 1985], 445 [Counsel Queneudec]; 1985 *Guinea/Guinea-Bissau Award*, paras 96, 113-115 [20 ILM 292, 299 (1986)]; *Gulf of Fonseca Oral Hearings*, C 4/CR 91/46, 31 [Counsel Lauterpacht, 11 June 1991]; *Canada/France Award*, paras 23, 75-82 [31 ILM 1160, 1171-1172 (1992)]; *Denmark v. Norway Separate Os Oda*, ICJ Rep. 1993, 99, Shahabuddeen, 134-135; Oral Hearings, CR 93/6, 12 [Agent Haug, 18 Jan 1993], CR 93/7, 23-24 [Counsel Brownlie, 19 Jan 1993]; *East Timor Oral Hearings* [trans.], CR 95/3, 75 [Co-Agent Teles, 31 Jan 1995], CR 95/11, 39-40 [Counsel Bowett, 11 Feb 1995]; *Spain v. Canada (Jurisdiction) Dissent Torres Bernardez*, ICJ Rep. 1998, 650 para.181.

1982 LOSC, Article 76(2)

Libya/Malta Pleadings, Vol.I, 106 [Libya's Memorial].

1982 LOSC, Article 76(3)

Tunisia/Libya (Merits) Judgment, ICJ Rep. 1982, 56-57, Dissents Oda, 219-220, Evensen, 286, 289-290; *Libya/Malta Pleadings*, Vol.I, 106 [Libya's Memorial], Vol.II, 101 [Libya's Counter-Memorial].

1982 LOSC, Article 76(4)

Tunisia/Libya (Merits) Dissent Evensen, ICJ Rep. 1982, 284, 286, 290; *Libya/Malta Pleadings*, Vol.I, 106 [Libya's Memorial]; *Canada/France Award*, paras 23, 75, 81-82 [31 ILM 1160, 1171-1173 (1992)], Dissent Gotlieb, paras 63-64 [*id.* 1195-1196], Dissent Weil, para.42 [*id.* 1215].

1982 LOSC, Article 76(5)

Tunisia/Libya (Merits) Dissent Evensen, ICJ Rep. 1982, 284, 286, 290; Pleadings, Vol.V, 59 [Counsel Vallat, 1 Oct 1981]; *Libya/Malta (Merits)* Separate O. Sette-Camara, ICJ Rep. 1985, 70; Pleadings, Vol.I, 106 [Libya's Memorial], Vol.III, 412 [Counsel Weil, 30 Nov 1984], Vol.IV, 35 [Counsel Briggs, 7 Dec 1984].

1982 LOSC, Article 76(6)

Tunisia/Libya (Merits) Dissent Evensen, ICJ Rep. 1982, 290; *Libya/Malta* Pleadings, Vol.I, 106 [Libya's Memorial].

1982 LOSC, Article 76(7)

Tunisia/Libya (Merits) Dissent Evensen, ICJ Rep. 1982, 286, 290; *Libya/Malta* Pleadings, Vol.I, 106 [Libya's Memorial].

1982 LOSC, Article 76(8)

Gulf of Maine Pleadings, Vol.VII, 191 [Counsel Stevenson, 9 May 1984]; *Libya/Malta* Pleadings, Vol.IV, 365 [Counsel Weil, 12 Feb 1985]; *Canada/France* Award, paras 23, 79 [31 ILM 1160, 1172 (1992)].

1982 LOSC, Article 76(10)

Tunisia/Libya (Merits) Judgment, ICJ Rep. 1982, 48, Dissent Evensen, 285, 290; Pleadings, Vol.V, 60 [Counsel Vallat, 1 Oct 1981], 262 [Counsel Jennings, 13 Oct], 502, 504 [Replies to Mosler, 21 Oct 1981]; *Gulf of Maine* Pleadings, Vol.V, 417 n.1 [US Reply], Vol.VII, 191 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 30, Separate O. Sette-Camara, 68; Pleadings, Vol.I, 100 n.4 [Libya's Memorial], Vol.II, 103 n.1 [Libya's Counter-Memorial], Vol.III, 97 [Libya's Reply], Vol.IV, 86 [Counsel Queneudec, 11 Dec 1984], 437 [Counsel Jaenicke, 21 Feb 1985].

Coastal State's Rights

1958 CSC, Article 2; 1982 LOSC, Article 77:

North Sea ICJ Rep. 1969, 3 – Judgment, 22, para.19, 29, para.39, 31, para.43, 32-33, paras 47-48, 39, para.63, 40, para.67, 51, para.95, Declaration Sir Muhammad Zafrulla Khan, 55, Separate O. President Bustamante y Rivero, 57, 60, Separate Os Padilla Nervo, 95-97, Ammoun, 102-106, 114-118, 123-124, Dissents Koretsky, 154, Tanaka, 172, 179-181, 187, Morelli, 198-199, 201, 205, Lachs, 221, Sorensen, 245, 246; *North Sea* Pleadings, Vol.I, 17, 61, 63 [FRG

Memorial], 351 [NL Counter-Memorial], 393, 402, 409 [FRG Reply], 464, 466-467, 508, 512 [Common Rejoinder of Denmark/NL], Vol.II, 19 [Agent Jaenicke, 23 Oct 1968], 55-56 [Counsel Shigeru Oda, 25 Oct], 92-97, 99, 104-111 [Counsel Sir Humphrey Waldock, 29 Oct], 137 [Agent Riphagen, 31 Oct], 169-170, 173-174 [Jaenicke, 4 Nov], 197 [Oda, 5 Nov], 213-216 [Riphagen, 7 Nov], 242-244, 246-248, 258 [Reply by Waldock to Questions Fitzmaurice, 8 Nov], 273-274, 278 [Waldock, 11 Nov 1968]; *Fisheries Jurisdiction (Interim Measures)* Joint Declarations, ICJ Rep. 1972, 18, 36, Dissents Padilla Nervo, 22-27, 39-44, (*Jurisdiction*) Separate Os Fitzmaurice, ICJ Rep. 1973, 27-28, 71-72, Dissents Padilla Nervo, 38, 83, (*Merits*) Separate Os Waldock, 108, 227, Dissent Gros, 135; *Fisheries Jurisdiction* Pleadings (UK), 149 [Memorial (*Jurisdiction*)], 462 [Counsel Silkin, 25 March 1974], (FRG), 216-217, 231 [Memorial (*Merits*)]; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 4, 6-11, Separate Os Mosler, 25-26, Elias, 27-30, Dissent Stassinopoulos, 35-40, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 6-8, 20-37, Dissents de Castro, 63-71, Stassinopoulos, 76, 78-80; 1976 Observations of Turkey; *Aegean Sea* Pleadings, 3-11 [Greece's Application], 63-66 [Request], 107-110 [Counsel O'Connell, 25 Aug 1976], 118 (Question Ruda), 128-131 [Counsel Pinto, 26 Aug], 139-140 [Reply O'Connell to Ruda, 27 Aug 1976], 251-259 [Memorial of Greece (*Jurisdiction*)], 341-346 [O'Connell, 10 Oct 1978], 421-425 [Counsel Weil, 13 Oct], 433-440 [Counsel Economides, 13 and 16 Oct 1978], 441, 453-460 [O'Connell], 467 [Question by President de Aréchaga], 495 [Reply Economides], 604 [Turkey's Letter], 560-568 and 621-622 [Written Reply to Question by Mosler, 26 Oct 1978].

Tunisia/Libya (Merits) Judgment, ICJ Rep. 1982, 61, Separate O. de Arechaga, 123-124, Dissents Oda, 176-182, 190-192, 221-222, 231-234, 247, 249, 253-254, Evensen, 284-287; *Gulf of Maine* Judgment, ICJ Rep. 1984, 279-283, 305-308, Dissent Gros, 371-381; Pleadings, Vol.I, 129 [Canada's Memorial], Vol.II, 34-38 [US Memorial], Vol.III, 342-351 [Canada's Counter-Memorial], Vol.IV, 65 [US Counter-Memorial], Vol.V, 392-399, 415-416 [US Reply], Vol.VII, 200 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 11, Dissents Sette-Camara, 87-88, Oda, 108, Sir Robert Jennings, 155, 159, (*Merits*) Judgment, ICJ Rep. 1985, 30-33, 43, 56, Separate O. Sette-Camara, 63-64, 69-71, Joint Separate O., 83, Dissent Oda, 156-157; Pleadings, Vol.I, 63-84 [Libya's Memorial], 442-443 [Malta's Memorial], Vol.II, 16-23, 72-73 [Libya's Counter-Memorial], 555-556 [Counsel Virally, 26 Jan 1984], Vol.III, 12-19 [Libya's Reply]; *Great Belt* Pleadings, 308-310 [Finland's Memorial], 510-511 [Denmark's Counter-Memorial]; *Guinea-Bissau v. Senegal Arbitral Award* Separate O. Vice-President Oda, ICJ Rep. 1991, 89; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/7 [trans.], 5-6 [Counsel Weil, 23 April 1991]; *Denmark v. Norway* Separate Os Schwebel, ICJ Rep. 1993, 118, Ajibola, 292, 294; *Qatar v.*

Bahrain (Merits) Judgment, ICJ Rep. 2001 (in press), para.170 <<http://www.icj-cij.org>>.

On covering by the “freedom of commerce and navigation” clause contained in the FCN Treaties of oil platforms located within the EEZ/CS, see High Seas – Freedom of the High Seas, *Iran v. USA Oil Platforms* case *infra*.

See also Equitable Maritime Boundary Delimitation – Natural Prolongation *infra*.

Sedentary Species

1958 CSC, Article 2(4); 1982 LOSC, Articles 68 and 77(4):

Anglo/Norwegian Fisheries Pleadings, Vol.I, 352, 368-370 [Counter-Memorial of Norway], II, 413-414, 584 [UK Reply], Vol.III, 253-259 [Norway’s Rejoinder]; *Minquiers and Ecrehos* Pleadings, Vol.II, 255 [Agent Gros, 30 Sep 1953], 353-354 [Counsel Fitzmaurice, 5 Oct 1953]; *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 112-113, 126; *North Sea* Pleadings, Volume I, 467 [Common Rejoinder of Denmark/NL]; *Fisheries Jurisdiction (Jurisdiction)* Separate Os Fitzmaurice, ICJ Rep. 1973, 27-28, 71-72, (*Merits*) Separate Os de Castro, 85, 225; Pleadings (FRG), 217 [Memorial (*Merits*)]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 67-68, 70, 72-73, 75, 77, Separate O. de Arechaga, 122-132, 136, Dissents Gros, 154-155, Oda, 197-211, 248; Pleadings, Vol.I, 73-105 [Tunisia’s Memorial]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 281-282, 343; Pleadings, Vol.II, 51-52 [US Memorial], Vol.III, 160-161 [Canada’s Counter-Memorial], Vol.V, 416 [US Reply].

Superjacent Waters and Air Space

1958 CSC, Articles 3 and 5(1); 1982 LOSC, Part VI, Article 78 and Part VII:

North Sea Judgment, ICJ Rep. 1969, 31, para.43, 37, para.59, 39, para.63, Separate O. Ammoun, 101, 110, 143, 150, Dissents Koretsky, 154, Tanaka, 179-181, 187; *North Sea* Pleadings, Vol.I, 61 [FRG Memorial], 409 [FRG Reply], 464, 512 [Common Rejoinder of Denmark/NL], Vol.II, 97, 98, 107-110 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 129-130, 137, 139 [Agent Riphagen, 30 and 31 Oct], 174 [Agent Jaenicke, 4 Nov], 244 [Reply by Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction)* Separate Os Fitzmaurice, ICJ Rep. 1973, 27-28, 72, (*Merits*) Joint Separate Os, 46, 218, Separate Os de Castro, 85, 93, 225, Separate Os Waldock, 108, 227, Dissent Gros, 135, Dissents Petren, 150, 161, 240, Dissent Onyeama, 171; *Fisheries Jurisdiction* Pleadings (UK), 349, 373 [Memorial (*Merits*)], (FRG), 217, 232 [Memorial (*Merits*)]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 69, Dissent Oda, 178, 192, 231; *Gulf of Maine* Dissent Gros, ICJ Rep. 1984, 374;

Pleadings, Vol.VII, 200 [Counsel Stevenson, 9 May 1984]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 33.

1951 *Petroleum Development (Trucial Coast) Ltd. v. Sheikh of Abu Dhabi* Award – see Equitable Maritime Boundary Delimitation *infra*.

Revenue Sharing

1982 LOSC, Article 82:

Tunisia/Libya (Merits) Dissents Oda, ICJ Rep. 1982, 166, 215-219, 248, Evensen, 285; *Libya/Malta (Merits)* Separate O. Sette-Camara, ICJ Rep. 1985, 71, Dissent Oda, 155; Pleadings, Vol.IV, 365 [Counsel Weil, 12 Feb 1985].

Tunnelling

1958 CSC, Article 7; 1982 LOSC, Article 85:

Tunisia/Libya (Merits) Dissent Oda, ICJ Rep. 1982, 175-176, paras 31-32; *Gabcikovo* Oral Pleadings, CR 97/5, 66 [Counsel Sands, 6 March 1997].

On bridges and tunnels across straits, see Straits Used for International Navigation – *Great Belt* case *supra*.

* * *

On 1856/8 *Cornwall Submarine Mines (First)* Arbitration, Sir John Patteson, see *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 175.

On 1964 *L'île de la REM*, see High Seas – Unauthorized Broadcasting *infra*.

On 1967 *Atlantis Development Co. v. US* [379 F 2d 818; 63 AJIL 642 (1969); *Tunisia/Libya* Pleadings, Vol.III, 482], see *Tunisia/Libya* Pleadings, Vol.III, 343 [Counsel Lalive, 20 March 1981]; *Indonesia/Malaysia* Separate O. Weeramantry, para.20 n.17, ICJ Rep. 2001 <<http://www.icj-cij.org>>.

On 1970 *Ministre d'Etat chargé de la défense nationale v. Starr (The Johmo)* Judgment of Conseil d'Etat, President Odent [99 *Journal DI* 572 (1972)], see *Aegean Sea* Pleadings, 139 [Reply, 27 Aug 1976], 256 [Greece's Memorial (Jurisd.)], 456 [Counsel O'Connell, 16 Oct 1978].

On 1978 *Treasure Salvors*, see High Seas *infra*.

See also Access to and Jurisdiction and Treatment in Ports – Ports/Oil and Gas Development; Exclusive Economic (Fishery) Zone *supra*; High Seas; Submarine Cables and Pipelines; Equitable Maritime Boundary Delimitation; Charts and Geographical Coordinates; Enclosed or Semi-Enclosed Seas; Protection and Preservation of the Marine Environment; Use of Force in Enforcement at Sea; Marine Scientific Research; Participation by International Organizations; and other relevant sections *infra*.

EQUITABLE MARITIME BOUNDARY DELIMITATION

1958 TSC, ARTICLES 12 AND 24(3); 1958 HSFC, ARTICLE 7(5); 1958 CSC, ARTICLE 6

1982 LOSC, PART II, ARTICLE 15, PARTS V/VI, ARTICLES 74/83, PART XV

Relevant Jurisprudence

Italy/Turkey Delimitation of the Territorial Waters Between the Island of Castellorizo and the Coast of Anatolia Order, PCIJ Series A/B, No.51 (1933), President M. Adatci – Treaty of Peace of Lausanne of 24 July 1923 [28 LNTS 11; 18 AJIL Suppl., 1, 6-12 (1924)]; Orders of 1931/1932, *Castellorizo Pleadings*, PCIJ Series C, No.61, 33-36.

The case was discontinued as a result of conclusion of Italy/Turkey Ankara Agreement of 4 January 1932 [in force: 10 May 1933, 138 LNTS 243; Registered with the LN Secretariat, No.3191, 24 May 1933].

For references to the 1932 Ankara Agreement, see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 126; *North Sea Pleadings*, Vol.I, 263-264 [Denmark's Counter-Memorial, Annex 13, B.Territorial Waters: Equidistance Principle], 388 [NL Counter-Memorial, Annex 15], 450 [FRG Reply, Annex, B.Territorial Waters], 489 [Common Rejoinder of Denmark/NL]; *Aegean Sea Pleadings*, 44 [Turkey's Note Verbale of 15 March 1976], 88 [Counsel O'Connell, 25 Aug 1976].

The *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 33, para.78 noted that at the time of accession by Greece on 14 September 1931 to the 1928 Geneva General Act for the Pacific Settlement of International Disputes, the Dodecanese Group was not in Greece's possession, for those islands were ceded to Greece by Italy only in the Treaty of Peace of Paris of 10 February 1947 [49 UNTS 126; Article 14, in UN Doc. S/1976/12176]. Cf. *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 127; *Pleadings*, Vol.I, 263, 342 [NL Counter-Memorial]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/18, 21-22 [Counsel Sinclair, 21 June 2000].

In tension arisen in January 1996 over the islet (rock) of Imia (Kardak), Turkey based its claim on the 1932 Ankara Agreement, while Greece invoked the 1947 Treaty of Peace of Paris as the basis of its title.

Anglo/Norwegian Fisheries Judgment, ICJ Rep. 1951, 116, 128-129, 132-133, took first step towards creating a concept of equity as part of international law applicable to maritime boundary delimitation; as referred to in *North Sea Separate O. Ammoun*, 145; *North Sea Pleadings*, Vol.II, 179-180 [Agent Jaenicke, 4 Nov 1968], 194-195 [Counsel Oda, 5 Nov], 271-272 [Counsel Sir

Humphrey Waldock, 11 Nov 1968]; *Gulf of Maine* Pleadings, Vol.IV, 69-70 [US Counter-Memorial], Vol.VII, 31 [Counsel Weil, 3 May 1984]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 238-239, 258-259.

FRG/Denmark; FRG/Netherlands North Sea Continental Shelf ICJ Rep. 1969, President J.L. Bustamante y Rivero concurring – Judgment, 3, 46-54, Declaration Sir Muhammad Zafrulla Khan, 54, Declaration (dissenting) Bengzon, 56, Separate O. President Bustamante y Rivero, 57, Separate Os Jessup, 67, Padilla Nervo, 85, Ammoun, 100, Dissent Vice-President Koretsky, 154, Dissents Tanaka, 171, Morelli, 197, Lachs, 218, Sorensen, 241; Orders, ICJ Rep. 1967, 3, 6, 1968, 3, 6, 9.

FRG/Denmark Agreement on Remainder of Boundary [UN Doc. ST/LEG/SER.B/16, 424 (1974)]; *Gulf of Maine* Pleadings, Vol.IV, 444; Charney/ASIL Report No.9-8 (Anderson) and FRG/Netherlands Treaty on the Continental Shelf Delimitation [857 UNTS 131; *Gulf of Maine* Pleadings, Vol.IV, 445; Charney/ASIL Report No.9-11 (Anderson)], both of 28 January 1971 [both in force: 7 December 1972], implemented the 1969 Judgment by boundaries which were drawn to the center of the North Sea on the basis of equitable principles, and which completed the partial boundaries under the 1964 FRG/Netherlands [in force: 18 September 1965, 550 UNTS 123] and the 1965 FRG/Denmark [in force: 27 May 1966, 570 UNTS 91] Agreements. Cf. *Gulf of Maine* Pleadings, Vol.IV, 154-157, 161, 166, 444-445 [US Counter-Memorial], State Practice Vol.I, 195, 201; *Libya/Malta* Pleadings, Vol.II, 108 [Libya's Counter-Memorial], Vol.III, 297 [Agent Mizzi, 26 Nov 1984], Vol.IV, 107 [Counsel Colliard, 11 Dec 1984], 464 [Counsel Bowett, 22 Feb 1985]; *Denmark v. Norway* Oral Hearings, CR 93/6, 60 [Agent Haug, 18 Jan 1993].

The new boundaries also necessitated amendment of the 1965 UK/Netherlands Agreement [in force: 23 December 1966, 595 UNTS 105] by a Protocol of 25 November 1971 [861 UNTS 224; Charney/ASIL Report No.9-13 (Anderson)] and replacement of the 1966 UK/Denmark Agreement [in force: 6 February 1967, 592 UNTS 207] by the new UK/Denmark Agreement on the Continental Shelf Delimitation of 25 November 1971 [11 ILM 723 (1972); ASIL/Charney Report No.9-10 (Anderson)] [both in force: 7 December 1972]. Cf. *Libya/Malta (Merits)* Joint Separate O., ICJ Rep. 1985, 80; Pleadings, Vol.II, 125 n.1 [Libya's Counter-Memorial], 344, 356 [Malta's Counter-Memorial], Vol.III, 45, 47 [Libya's Reply], Vol.IV, 464 [Counsel Bowett, 22 Feb 1985].

The northernmost part of the initial UK/Netherlands boundary, and the southernmost part of the initial UK/Denmark boundary became the boundary between the United Kingdom and Germany [Charney/ASIL Report No.9-13 (Anderson)]. The subsequently concluded UK/Netherlands Agreement on the Exploitation of the Markham Field Reservoirs of 26 May 1992 [1731 UNTS 155]

applies to the area extending across the dividing line as defined in the 1965/1971 Agreement between the two states [63 *British YIL* 750 (1992)].

For reliance on the *North Sea* Judgment, see *UNCLOS III Off. Rec.*, Vol.II, Statements of: Orion (Israel), 16th Meeting-26 July 1974, 144; Herrera Caceres (Honduras), 145; Galindo Pohl (El Salvador), 18th Meeting-29 July, 149; Kelly de Guibourg (Argentina), 150; Chao (Singapore), 151; Lupinacci (Uruguay), 153; Mircea (Romania), 19th Meeting-30 July, 156; Caflisch (Switzerland), 157; Yolga (Turkey), 158; Araim (Iraq), 159; Panupong (Thailand), 159-60; Kedadi (Tunisia), 20th Meeting-30 July, 163; Gayan (Mauritius), 163; Jacovides (Cyprus), 163; Lysaght (Ireland), 165; Sobarzo (Mexico), 166; Robinson (Jamaica), 167-168; Bellizzi (Malta), 168-169; Al-Nimer (Bahrain), 22nd Meeting-31 July 1974, 171 (1975). Cf. also Vol.V, Guney (Turkey), 61st Meeting-6 April 1976, 30, and Vol.XIV, Yolga (Turkey), 140th Meeting-27 August 1980, 79 (1982); *Libya/Malta* Pleadings, Vol.I, 105-107 [Memorial of Libya]. The Netherlands Draft of 19 July 1974 was amongst the first attempts to combine the application of equitable principles with equidistance [Doc. A/CONF.62/C.2/L.14, in Vol.III, 190 (1975), and Statement of Riphagen (NL), 28th Meeting-6 August 1974, Vol.II, 218. Cf. Statement of Kiaer (Denmark), 20th Meeting-30 July 1974, Vol.II, 162.

During the *North Sea* proceedings, Germany claimed that the principle of a “just and equitable share” belonged to the realm of the general principles of law to which the international judge was authorized to recur in order to avoid a *non liquet*. Denmark and the Netherlands – which countered the validity of the “just and equitable share” principle within the meaning of Article 38(1)(c) of the ICJ Statute – alleged that the FRG was virtually asking the Court to pronounce a *non liquet* or “a thinly disguised *non liquet*”, and to remand the cases back to the parties for another round of negotiations. Germany found this criticism as not being justified and as putting the legal issue before the Court into a wrong perspective. See *North Sea* Pleadings, Vol.I, 393 [FRG Reply], 456, 468, 521-522 [Common Rejoinder of Denmark/NL], and Vol.II, 9-10 [Agent Jaenicke, 23 Oct 1968], 98, 117 [Counsel Sir Humphrey Waldock, 29 and 30 Oct 1968]. Cf. also *Corfu Channel (Merits)* Dissent Azevedo, ICJ Rep. 1949, 83; 1988 *Taba* Award [*infra*], paras 216-225, 239, Dissent Lapidoth, paras 150-165; *Great Belt* Oral Hearings, CR 91/13, 62 [Counsel Treves, 4 July 1991]. The precedential instance of a *non liquet* formula was subsequently provided by the paramount holding 105.2.E, narrowly adopted in the *Nuclear Weapons (UNGA Request)* Advisory Opinion by seven to seven votes, by the President’s casting vote. See *Nuclear Weapons* Declaration Vereshchetin, ICJ Rep. 1996, 279, Dissents Vice-President Schwebel, 322-323, Shahabuddeen, 389-390, Higgins, 590-592.

Greece v. Turkey Aegean Sea Continental Shelf (Request for the Indication of Interim Measures of Protection) Order, ICJ Rep. 1976, 3, President E. Jiménez de Aréchaga concurring, Separate O. President de Aréchaga, 15, Separate O. Vice-President Nagendra Singh, 17, Separate Os Lachs, 19, Morozov, 21, Ruda, 23, Mosler, 24, Elias, 27, Tarazi, 31, Dissent Stassinopoulos, 35, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 3, Declarations Gros, 49, Morozov, 54, Separate Os Nagendra Singh, 46, Lachs, 50, Tarazi, 55, Dissents de Castro, 62, Stassinopoulos, 72; Orders, ICJ Rep. 1976, 42, 1977, 3.

See also 1933 *Castellorizo* Order *supra*.

The Court's reliance, ICJ Rep. 1978, 29-37, on the "territorial status" clause in Greece's reservation to the 1928 General Act for the Pacific Settlement of International Disputes [93 LNTS 344] provided, by analogy, a significant contribution to the interpretation that a "territorial status/disputes" reservation in the Optional Clause declarations covers the continental shelf. But see Dissents de Castro, 63-71, and Stassinopoulos, 78-80. See also Exclusive Economic (Fishery) Zone – Customary Law Status *supra*.

Cf. UN Doc. A/CONF.62/WS/26 of 4 May 1982 (Greece), in *UNCLOS III Off. Rec.*, Vol.XVI, 266 (1984), and A/CONF.62/WS/34 of 15 November 1982 (Turkey), Vol.XVII, 226 (1984); Montego Bay Statements of Kirca (Turkey), 189th Meeting-8 December 1982, and Papoulias (Greece), 191st Meeting-9 December 1982, Vol.XVII, 76-78, 110 (1984); Greece's Declaration upon signing the LOSC on 10 December 1982, *UN LOS Bull.* 29 (1994 No.25), as responded by Tukey's Statement of 24 February 1983, Vol.XVII *supra*, 242-243; Greece's Declaration upon ratifying the LOSC and Part XI Agreement on 21 July 1995, *UN LOS Bull.* 6-7 (1995 No.29), as responded by Turkey's Note of 19 December 1995, *id.* 9 (1996 No.30), as rejoined by Greece's Note of 30 June 1997, *id.* 11 (1997 No.35).

Tunisia/Libya Continental Shelf (Application of Malta for Permission to Intervene) Judgment [unanimous], ICJ Rep. 1981, 3, President Sir Humphrey Waldock, Separate O. Morozov, 22, Separate O. Oda, 23, Separate O. Schwebel, 35, (*Merits*) Judgment, ICJ Rep. 1982, 18, Acting President T.O. Elias concurring, Separate Os Ago, 95, Schwebel, 99, Jiménez de Aréchaga, 100, Dissents Gros, 143, Oda, 157, Evensen, 278, *Tunisia v. Libya (Application for Revision and Interpretation)* Judgment [unanimous], ICJ Rep. 1985, 192, President Nagendra Singh, Separate Os Ruda, 232, Oda, 236, Schwebel, 246, de Bastid, 247; Orders, ICJ Rep. 1979, 3, 1980, 70, 1981, 42.

Tunisia/Libya Benghazi Agreement of 8 August 1988 to Implement the Judgment of the International Court of Justice in the *Tunisia/Libya Continental Shelf* Case [in force: 11 April 1989, Charney/ASIL Report No.8-9 (Scovazzi); Francalanci/Scovazzi No.111] literally followed the geographical coordinates and

elements suggested by the Court with respect to the first and second (giving a half effect to the Tunisian Kerkennahs) sectors of the boundary line. On the same day, the parties also concluded two other Agreements [*id.*] – one concerning their Joint Development Zone in the Gulf of Gabes (El Bouri Field), with this zone being divided in two parts by the boundary, and another Agreement concerning the financing of joint projects by a percentage of oil revenues. Thus, the parties, motivated primarily throughout the long course of their dispute by their concerns with petroleum exploitation, opted ultimately for a solution of joint development, as originally envisaged in Communiqué of Presidents Habib Bourguiba and Muammar Ghadafi of 18 December 1972 [*Tunisia/Libya Pleadings*, Vol.I, 233-237; cf. *id.* 469-470 (Libya's Memorial); Libya became an independent state in 1951 and Tunisia in 1956], and as suggested in Dissent of Judge *ad hoc* Evensen (former UNCLOS III Vice-President and *Iceland/Norway Conciliator*), ICJ Rep.1982, 317-323.

For Tunisia's Declaration made upon ratifying the LOSC on 24 April 1985, see *UN LOS Bull.* 19 (1994 No.25). For Communication of 27 May 1994 of Tunisia (which might claim a CS entitlement vis-a-vis Malta), objecting to interpretation of Articles 74/83 contained in Malta's Declaration made upon ratifying the LOSC on 20 May 1993 [*id.* 15], see *id.* 4 (No.26).

Canada/USA Delimitation of the Maritime Boundary in the Gulf of Maine Area (Constitution of Chamber) Order, electing Judges Gros, Ruda, Mosler, Ago and Schwebel to the *ad hoc* Chamber in pursuance of Article 26(2) of the Statute, ICJ Rep. 1982, 3, Acting President T.O. Elias concurring, Declaration Oda, 10, Dissents Morozov, 11, El-Khani, 12 [President Sir Humphrey Waldock, whom the parties intended to elect as the Chamber's President, died on 15 August 1981; cf. Pleadings, Vol.VII, 289]; (*Merits*) Judgment, ICJ Rep. 1984, 246, Chamber's President Ago concurring, Technical Report Cmdr. Beazley, 347, Separate O. Schwebel, 353, Dissent Gros, 360; Orders, ICJ Rep. 1982, 557, 1983, 6, 1984, 165.

The Canadian/US boundary determined by the *Gulf of Maine* Judgment has continued to impact and shape the course of post-adjudicative fisheries relations, management and conditions in the Gulf of Maine region. On Canada/USA Agreement on Fisheries Enforcement of 26 September 1990 [in force: 16 December 1991, 30 ILM 419 (1991)] and the 1991-2000 Action Plan on the Marine Environment in the Gulf of Maine Region (including Georges Bank and the Bay of Fundy), see 19 *Marine Policy* 301-323 (1995). On the US decision to establish marine protected area in the Gulf of Maine, see *Secretary-General Law of the Sea Report*, UN Doc. A/53/456, para.263 (1998).

Libya/Malta Continental Shelf (Application of Italy for Permission to Intervene) Judgment, ICJ Rep. 1984, 3, President T.O. Elias concurring, Separate Os Morozov, 30, Nagendra Singh, 31, Mbaye, 35, Jiménez de Aréchaga, 55, Dissent Vice-President Sette-Camara, 71, Dissents Oda, 90, Ago, 115, Schwebel, 131, Sir Robert Jennings, 148; (*Merits*) Judgment, ICJ Rep. 1985, 13, Declaration El-Khani, 59, Separate O. Vice-President Sette-Camara, 60, Separate O. Ruda, Bedjaoui, Jiménez de Aréchaga, 76, Separate Os Mbaye, 93, Valticos, 104, Dissents Mosler, 114, Oda, 123, Schwebel, 172; Orders, ICJ Rep. 1982, 554, 1983, 3, 1984, 162.

Libya/Malta Valetta Agreement of 10 November 1986 [in force: 11 December 1987, Charney/ASIL Report No.8-8 (Scovazzi)] determined a 10-segment line precisely following the Court's Judgment.

On Libya's claim to some 300 miles long closing line in the Gulf of Sidra, see Internal Waters, Territorial Sea and Baselines – Bays *supra*.

On Malta's 1993 LOSC Declaration, see *Tunisia/Libya*; and on its archipelagic status, see Archipelagic State – Archipelagic Baselines *supra*.

Guinea-Bissau v. Senegal Arbitral Award of 31 July 1989 (Request for the Indication of Provisional Measures) Order, ICJ Rep. 1990, 64, President J.M. Ruda concurring, Separate Os Evensen, 72, Shahabuddeen, 74, Dissent Thierry, 79; *Guinea-Bissau v. Senegal* Judgment, ICJ Rep. 1991, 53, President Sir Robert Jennings concurring, Declarations Tarassov, 77, Mbaye, 80, Separate O. Vice-President Oda, 81, Separate Os Lachs, 92, Ni, 96, Shahabuddeen, 106, Joint Dissent Aguilar Mawdsley and Ranjeva, 120, Dissents Weeramantry, 130, Thierry, 175; Order, ICJ Rep. 1989, 126. Whereas the Judgment concerned the procedural question of the validity of the 1989 Award (which it upheld), it was of direct relevance to future delimitation in that it reaffirmed the Award's findings on the validity of the 1960 Franco/Portuguese Agreement with respect to delimitation of the TS, CZ and the CS between the parties.

For Notes Verbales of Guinea-Bissau and Senegal of 14 November 1991 to the UN Secretariat concerning the Court's Judgment, see *UN LOS Bull.* 52, 53 (1992 No.20).

Guinea-Bissau v. Senegal Maritime Delimitation (Discontinuance) Order, ICJ Rep. 1995, 423, President M. Bedjaoui. The case was discontinued in a follow-up to conclusion of the Guinea-Bissau/Senegal Dakar Management and Cooperation Agreement of 14 October 1993 and Bissau Protocol on the Establishment and Functioning of the International Agency of 12 June 1995 [both in force: 21 December 1995, *UN LOS Bull.* 40, 42 (1996 No.31); *ICJ Communiqué* No.95/36; Charney/ASIL No.4-4(4) & (5) (Prescott)]. Cf. *Arbitral Award* Judgment, ICJ Rep. 1991, 74-75, Declaration Tarassov, 79, Separate O. Vice-President Oda, 91, Joint Dissent Aguilar and Ranjeva, 120, Dissent Thierry, 185.

On France/Portugal Agreement concerning Senegal and the French implementing Decree of 25 May 1960 [*North Sea Pleadings*, Vol.I, 267], see *North Sea Separate O.* Ammoun, ICJ Rep. 1969, 126; *North Sea Pleadings*, Vol.II, 59-60 [Counsel Shigeru Oda, 25 Oct 1968], 112-113 [Counsel Sir Humphrey Waldock, 30 Oct 1968]; *Tunisia/Libya Pleadings*, Vol.I, 493 [Libya's Memorial], Vol.II, 108, 313, 315 [Libya's Counter-Memorial]; *Gulf of Maine Pleadings*, Vol.II, 101-102 [US Memorial], Vol.IV, 446 [US Counter-Memorial], *State Practice Vol.I*, 89; 1989 *Guinea-Bissau/Senegal Award* [*infra*]; *Guinea-Bissau v. Senegal (Provisional Measures)* Order, ICJ Rep. 1990, 66-68, Dissent Thierry, 83, *Arbitral Award Judgment*, ICJ Rep. 1991, 57-61, 64-66, 68-69, 71-74, Declaration Tarassov, 77-79, Separate Os Vice-President Oda, 81-85, 86-88, Ni, 96-97, 101-104, Shahabuddeen, 114-117, Joint Dissent Aguilar and Ranjeva, 124, Dissents Weeramantry, 131-134, 143-145, 150-151, Thierry, 177-178, 180-181.

On 1989 *Guinea-Bissau/Senegal Maritime Boundary Award*, see *infra*.

On Guinea-Bissau's Declaration made upon ratifying the 1982 LOSC on 25 August 1986 [*UN Law of the Sea Bull.* 14 (1994 No.25)], see *Arbitral Award (Provisional Measures)* Separate O. Evensen, ICJ Rep. 1990, 72; and on its Optional Clause Declaration of 7 August 1989, see *id.*, Order, 68-69, *Arbitral Award Judgment*, ICJ Rep. 1991, 61-62, Declaration Mbaye, 80, *Guinea-Bissau v. Senegal* Order, ICJ Rep. 1995, 424.

See also Settlement of Disputes – Preventive Diplomacy, C) *infra*.

El Salvador/Honduras Land, Island and Maritime Frontier Dispute (Composition of Chamber) Order [unanimous], electing Judges Sette-Camara, Oda and Sir Robert Jennings, and Judges *ad hoc* Valticos and Torres Bernardez to the *ad hoc* Chamber in pursuance of Article 26(2) of the Statute, ICJ Rep. 1989, 162, President M. Ruda, Separate O. Shahabuddeen, 165; (*Application by Nicaragua for Permission to Intervene*) Order, ICJ Rep. 1990, 3, President Ruda concurring, Declaration Oda, 7, Dissents Elias, 9, Tarassov, 11, Shahabuddeen, 18, and Chamber's Judgment [unanimous], 92, Separate O. Oda, 138; *El Salvador/Honduras; Nicaragua Intervening Judgment*, ICJ Rep. 1992, 351, Chamber's President J. Sette-Camara concurring, Declaration Oda, 619, Separate Os Valticos, 621, Torres Bernardez, 629, Dissent Oda, 732; Orders, ICJ Rep. 1987, 10, 176, 1989, 3, 129.

Joint Communiqué of the Presidents of Honduras and El Salvador of 29 September 1992 stated that they will comply with the Chamber's Judgment, as was quoted and reaffirmed on behalf of both states by Mr. Castaneda Cornejo of El Salvador in his Statement to the 47th UNGA, UN Doc. A/47/PV.43, 17, 21-25 (1992). In its Diplomatic Note Circulated by the Permanent Mission of Nicaragua to Other Missions Accredited to the UN in January 1993, Nicaragua declared that

this Judgment “has not altered nor can it alter Nicaragua’s rights in the Gulf of Fonseca or in the maritime spaces in the Pacific Ocean”, and reiterated “its willingness to reach bilateral or multilateral agreements with its neighbours”. See also OAS Communiqué of 30 December 1999 <<http://www.summit-americas.org/ASG/Honduras-Nicaragua/Communique-DEC30-99.htm>>; Nicaragua’s Declaration of 3 May 2000 and Honduras’s Decree No.7, Article 1.B, in *UN LOS Bull.* 13, 96 (2000 No.43); Nicaragua/El Salvador Summit of 27 August 2001 <http://www.americas.org/news/nir/20010906_honduras_not_invited_to_summit.asp>.

Request of the Ministry of Foreign Affairs of Honduras to the President of the United Nations Security Council of 18 January 2002, in pursuance of Article 94(2) of the UN Charter, that the SC intervene and assist in execution of a faithful compliance with the 1992 Judgment.

On 1916 *Costa Rica v. Nicaragua* Judgment, see *Inter-Oceanic Canals supra*. On 1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment and 1933 *Guatemala/Honduras* Award, see *infra*.

On 1949 Declaration of Nicaragua, see *North Sea Pleadings*, Vol.I, 31 [FRG Memorial].

On 1950 Constitution of Honduras [*Anglo/Norwegian Fisheries Pleadings*, Vol.III, 693, Vol.IV, 581], see *Anglo/Norwegian Pleadings*, Vol.II, 525 [UK Reply], Vol.III, 651; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/45, 14-15 [Counsel Bowett, 10 June 1991], CR 91/46, 24-26 [Counsel Lauterpacht, 11 June 1991]. On also 1957, 1965, 1980 and 1982 Constitutions of Honduras [*Law of the Sea – National Legislation on the Territorial Sea, the Right of Innocent Passage and the Contiguous Zone* 156 (UN 1995)], see *id.* 27-29, CR 91/47, 10-12 [Bowett, 12 June], CR 91/48, 10-15 [Lauterpacht, 13 June 1991], CR 91/49, 21-24 [Agent Arguello], 38-39 [Counsel Brownlie].

On 1950 Constitution of El Salvador [*Anglo/Norwegian Fisheries Pleadings*, Vol.IV, 596, 600; *National Legislation on the Territorial Sea* 118 (UN 1995) *supra*], see *Gulf of Fonseca* Oral Hearings, C 4/CR 91/45, 22-23 [Counsel Bowett, 10 June 1991], CR 91/46, 24-26 [Counsel Lauterpacht, 11 June 1991].

Denmark v. Norway Maritime Delimitation in the Area Between Greenland and Jan Mayen Judgment, ICJ Rep. 1993, 38, President Sir Robert Jennings concurring, Declaration and Separate O. Vice-President Oda, 83 and 89, Declarations Evensen, 84, Aguilar Mawdsley, 86, Ranjeva, 87, Separate Os Schwebel, 118, Shahabuddeen, 130, Weeramantry, 211, Ajibola, 280, Dissent Fischer, 304; Orders, ICJ Rep. 1988, 66, 1990, 89.

Denmark/Norway Oslo Agreement on Delimitation of the Continental Shelf in the Area Between Jan Mayen and Greenland and on the Boundary Between the Fishery Zones in the Area of 18 December 1995 [in force: upon signature, *UN*

LOS Bull. 59 (1996 No.31)] and Additional Protocol of 11 November 1997 [*id.* 37 (1999 No.39); and *id.* 111 (2000 No.43)] fully implemented the Court's Judgment.

On discovery of Jan Mayen Island in 1614 by Dutch after whom it was named, see *Eastern Greenland Pleadings*, PCIJ Series C, No.63, 744-745, 755 [Denmark's Reply]. On establishment in 1922 and early operation of meteorological station on the Jan Mayen Island, see *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 226-229 [Norway's Counter-Memorial]; PCIJ Series C, No.63, 1073-1077 [Norway's Rejoinder]; *Denmark v. Norway Judgment*, ICJ Rep. 1993, 44. On the island's present LORAN-C station, see *id.* 46, 73-74, Separate O. Ajibola, 299, Dissent Fischer, 310; Denmark's Memorial, paras 194-207, Norway's Counter-Memorial, paras 78-109, 586-594, Appendixes 1-2, Denmark's Reply, paras 52-71; GJM 92/2 Add., Annex 95 (25 Nov 1992); Oral Hearings, CR 93/1Corr., 27 [Agent Lehmann, 11 Jan 1993], 37 [Counsel Thomsborg], CR 93/4, 24 [Counsel Bowett, 14 Jan], CR 93/5, 33-39 [Agent Tresselt, 15 Jan 1993].

On Svalbard Archipelago (Spitzbergen, Bear and Hopen Islands), including Spitzbergen Treaty of 9 February 1920 [in force: 1925, 2 LNTS 7; Denmark's Reply, Annexes 79-80] and the EEZ claim, see *Legal Status of Eastern Greenland Judgment*, PCIJ Series A/B, No.53 (1933) – Judgment, 36, 47, 60, 69-70, Dissent Anzilotti, 86-87, 115; Pleadings, PCIJ Series C, No.62, 41-42 [Denmark's Memorial], 385, 388, 397, 406-407, 412-413 [Norway's Counter-Memorial], No.63, 663-664, 756, 908 [Denmark's Reply], 1194-1195 [Norway's Rejoinder], No.64, 1871, No.66, 2871 [Counsel de Visscher, 29 Nov 1932]; *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 241 [Norway's Counter-Memorial]; *Denmark v. Norway Judgment*, ICJ Rep. 1993, 75, 76, Dissent Fischer, 313; Denmark's Reply, paras 52-71, 277-298, 433, Norway's Rejoinder, paras 633-641; Oral Hearings, CR 93/1Corr., 38 [Counsel Thomsborg, 11 Jan 1993], CR 93/3, 30-37 [Agent Magid, 13 Jan], CR 93/4, 23-24 [Counsel Bowett, 14 Jan], CR 93/5, 24 [Agent Haug, 15 Jan], 39 [Agent Tresselt], CR 93/10, 45-47 [Magid, 25 Jan 1993].

On Jan Mayen's straight baselines, see *Baselines supra*.

On Denmark/Norway Agreement on the Continental Shelf Delimitation of 8 December 1965 [in force: 22 June 1966], as Amended on 24 April 1968 [634 UNTS 71, 414; Charney/ASIL Report No.9-9 (Anderson)], see *North Sea Separate O. Ammoun*, 129, Dissent Tanaka, 174; *North Sea Pleadings*, Vol.I, 23 [FRG Memorial], 194 [Denmark's Counter-Memorial], 325, 347 [NL Counter-Memorial]; *Tunisia/Libya (Merits) Separate O. de Arechaga*, ICJ Rep. 1982, 111-112; *Gulf of Maine Pleadings*, Vol.IV, 437 [US Counter-Memorial], State Practice Vol.I, 129; *Libya/Malta Pleadings*, Vol.I, 119 [Libya's Memorial], Vol.II, 343-344, 356 [Malta's Counter-Memorial], Vol.III, 43 [Libya's Reply],

262 [Malta's Reply]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 48-56, Separate Os Oda, 104, Weeramantry, 263, Ajibola, 282, 283-284, Dissent Fischer, 304; Norway's Counter-Memorial, paras 337-339, 539, Denmark's Reply, paras 336-350, Norway's Rejoinder, paras 172-194, 213-218; Oral Hearings, CR 93/2, 60-62, 70-71 [Counsel de Arechaga, 12 Jan 1993], CR 93/5, 21-24 [Agent Haug, 15 Jan], CR 95/6, 8-37, 59 [18 Jan], CR 93/10, 35-42 [Agent Magid, 25 Jan], CR 93/11, 36-37 [Haug, 27 Jan 1993]; *Libya/Chad* Separate O. Ajibola, ICJ Rep. 1994, 58.

On Denmark(Faroes)/Norway Maritime Boundary Agreement of 15 June 1979 [in force: 3 June 1980; Charney/ASIL Report No.9-1 (Anderson)], see *Gulf of Maine* Pleadings, Vol.IV, 437 [US Counter-Memorial], State Practice Vol.I, 603; *Libya/Malta* Pleadings, Vol.I, 436, 466, 497 [Malta's Memorial], Vol.II, 127, 157 [Libya's Counter-Memorial], Vol.IV, 121 [Counsel Colliard, 12 Dec 1984]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 51, 55; Denmark's Memorial, para.289, Norway's Counter-Memorial, paras 354, 541, Denmark's Reply, paras 342-344, 381, Norway's Rejoinder, paras 195-199; Oral Hearings, CR 93/2, 62-65 [Counsel de Arechaga, 12 Jan 1993], CR 93/6, 59 [Agent Haug, 18 Jan], CR 93/7, 80 [Counsel Brownlie, 19 Jan], CR 93/10, 38-40 [Agent Magid, 25 Jan], CR 93/11, 32 [Haug, 27 Jan 1993].

On 1981 *Iceland/Norway (Jan Mayen)* Conciliation, see *infra*.

For Norway's Declaration made upon ratifying the LOSC and Part XI Agreement on 24 June 1996, see *UN LOS Bull.* 10 (1996 No.32).

Portugal v. Australia East Timor Judgment – see Economic Factors/Mineral Resource Factors *infra*.

Qatar v. Bahrain Maritime Delimitation and Territorial Questions (Jurisdiction and Admissibility) Judgment, ICJ Rep. 1994, 112, President M. Bedjaoui concurring, Declaration Shahabuddeen, 129, Separate O. Vice-President Schwebel, 130, Separate O. Valticos, 132, Dissent Oda, 133, and Judgment, ICJ Rep. 1995, 6, Dissent Vice-President Schwebel, 27, Dissents Oda, 40, Shahabuddeen, 51, Koroma, 67, Valticos, 74; Orders, ICJ Rep. 1991, 50, 1992, 237, 1995, 83, 1996, 6, 800;

Orders, ICJ Rep.1998, 243, and 1999, 3, President S.M. Schwebel, concerning 82 Qatar's documents challenged by Bahrain. Cf. *Qatar v. Bahrain (Merits)* Judgment, paras 15-25, Separate O. Fortier, paras 1-11;

Qatar v. Bahrain (Merits) Judgment, ICJ Rep. 2001 (in press), President G. Guillaume concurring, Separate O. Oda, Joint Dissent Bedjaoui, Ranjeva, Koroma, Declarations Herczegh, Vereshchetin, Higgins, Separate Os Parra-Aranguren, Kooymans, Al-Khasawneh, Dissent Torres Bernardez, Separate O. Fortier, <<http://www.icj-cij.org>>.

Letters of Bahrain and Qatar to the ICJ Registrar of 19 and 27 March 2001, 40 ILM 898, 899 (2001); and <<http://www.gna.gov.bh/bahrain-qatar/news/title-e1.html>>.

On Proclamation No.37/1368 of 5 June 1949 of Bahrain [*Tunisia/Libya Pleadings*, Vol.II, 490], see *North Sea Pleadings*, Vol.I, 31 [FRG Memorial]; *Tunisia/Libya Pleadings*, Vol.II, 213 [Libya's Counter-Memorial]; *Libya/Malta Pleadings*, Vol.I, 446, 449, 456 [Malta's Memorial].

On possible archipelagic status of Bahrain, see Archipelagic State – Archipelagic Baselines *supra*.

Cameroon v. Nigeria Land and Maritime Boundary (Request for the Indication of Provisional Measures) Order, ICJ Rep. 1996, 13, President M. Bedjaoui and Vice-President S.M. Schwebel concurring, Declarations Oda, 26, Shahabuddeen, 28, Ranjeva, 29, Koroma, 30, Joint Declaration Weeramantry, Shi and Vereshchetin, 31, Declaration Mbaye, 32, Separate O. Ajibola (dissenting), 35;

Cameroon v. Nigeria (Preliminary Objections) Judgment, ICJ Rep. 1998, 275, President S.M. Schwebel concurring, Separate Os Oda, 328, Vereshchetin, 342, Higgins, 345, Kooymans, 354, Dissent Vice-President Weeramantry, 362, Dissents Koroma, 377, Ajibola, 392;

Nigeria v. Cameroon Land and Maritime Boundary (Request for Interpretation of the Cameroon v. Nigeria Judgment of 11 June 1988) Judgment, President S.M. Schwebel concurring, ICJ Rep. 1999, 31, Dissent Vice-President Weeramantry, 42, Dissents Koroma, 49, Ajibola, 54;

Cameroon v. Nigeria (Counter-Claims) Order, President S.M. Schwebel concurring, ICJ Rep. 1999 (in press);

Cameroon v. Nigeria (Application of Equatorial Guinea for Permission to Intervene) Order [unanimous], President S.M. Schwebel, ICJ Rep. 1999, 1029;

Cameroon v. Nigeria; Equatorial Guinea Intervening (Merits) Judgment, ICJ Rep. 200- (in press) <<http://www.icj-cij.org>>;

Orders, ICJ Rep. 1994, 105, 1996, 3, 1998, 420, 1999, 24.

Indonesia/Malaysia Sovereignty Over Pulau Ligitan and Pulau Sipadan – see Regime of Islands *infra*.

Nicaragua v. Honduras Maritime Delimitation in the Caribbean Sea; Order, ICJ Rep. 2000, 6 <<http://www.icj-cij.org>>.

On 1906 *Honduras/Nicaragua Boundary Question* Award, see *infra*.

Cf. Press Statement of Nicaragua's Ministry of Foreign Affairs, <<http://www.tmx.com.ni/~sgc/n1.html>>; Related Documents, 15 October 2001 <<http://www.cancilleria.gob.ni/diferendo/index.html>> (in Spanish).

Nicaragua v. Colombia Territorial and Maritime Dispute, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>.

Cf. 23 AJIL 155 (1929); 25 AJIL 328 (1931).

1909 *Norway v. Sweden Grisbadarna Maritime Frontier Award*, PCA/Arbitrators: President J.A. Loeff, F.V.N. Beichmann (Norway), K.Hj.L. Hammarskjöld (Sweden); RIAA XI, 147; 4 AJIL 186, 226 (1910); No.288/Stuyt; *Gulf of Maine Pleadings*, Vol.II, 148-169; Charney/ASIL Report No.9-14 (Anderson); PCA 1999, 51. See also *infra*.

1951 *Petroleum Development (Trucial Coast) Ltd. v. Sheikh of Abu Dhabi* Award of Lord Asquith of Bishopstone; (1951)ILR 144; 1 ICLQ 247 (1952); 46 AJIL 512 (1952); 47 AJIL 156 (1953); *Tunisia/Libya Pleadings*, Vol.II, 469-470; No.A 1.28/Stuyt. See also *infra*.

1977 and 1978 *Anglo/French Continental Shelf Delimitation Decisions*, Court of Arbitration: President Erik Castren, Herbert Briggs, Andre Gros (France/ICJ), Endre Ustor, Sir Humphrey Waldock (UK/ICJ); 18 ILM 397, 463 (1979); 54 ILR 139, 213; RIAA XVIII, 3, 271; No.437/Stuyt; Charney/ASIL Report No.9-3 (Anderson). See also *infra*.

1977 *Argentina/Chile Beagle Channel Award*, President Sir Gerald Fitzmaurice (UK/ICJ), Andre Gros (France/ICJ), Sture Petren (Sweden/ICJ), Charles Onyeama (Nigeria/ICJ), Hardy C. Dillard (USA/ICJ); 17 ILM 634 (1978); 52 ILR 93; RIAA XXI, 55; No.435/Stuyt. The 1977 Award was rejected by Argentina in 1978 [17 ILM 738, 750 (1978)]; followed by Proposal of H.H. Pope John Paul II of 1980 and final settlement of 1984, 24 ILM 1 (1985); No. D 2/Stuyt; RIAA XXI, 240; Charney/ASIL Report No.3-1 (Jiménez de Aréchaga). See also *infra*.

1981 *Dubai/Sharjah Boundary Award*, Court of Arbitration: President Philippe Cahier (France), John L. Simpson (UK), Kenneth R. Simmonds (UK); 91 ILR 543; No.438/Stuyt; Charney/ASIL Report No.7-4 (Petrovski) & Add.1 (Charney). See also *infra*.

1981 *Iceland/Norway (Jan Mayen) Continental Shelf Conciliation Commission*, Conciliators: Chairman Elliot L. Richardson (USA), Hans G. Andersen (Iceland), Jens Evensen (Norway/ICJ); 20 ILM 1981, 797; No.B 18/Stuyt; Charney/ASIL Report No.9-4 (Anderson). See also *infra*.

1985 *Guinea/Guinea-Bissau Delimitation of the Maritime Boundary Award*, Arbitration Tribunal: Manfred Lachs (Poland/ICJ), Keba Mbaye (Senegal/ICJ), Mohammed Bedjaoui (Algeria/ICJ); 89 RGDIP, 484 (1985); 25 ILM 251 (1986); No.441/Stuyt; Charney/ASIL Report No.4-3 (Adede). See also *infra*.

1988 *Egypt/Israel Taba Beachfront Boundary Award*, Arbitral Tribunal: President Gunnar Lagergren (Sweden), Pierre Bellet, Dietrich Schindler, Hamed Sultan (Egypt), Ruth Lapidoth (Israel); 80 ILR 226; 27 ILM 1421 (1988); 28

ILM 611 (1989); No.449/Stuyt. See also *infra*.

1989 *Guinea-Bissau/Senegal Maritime Boundary Award*, Arbitral Tribunal: President Julio A. Barberis (Argentina), Mohammed Bedjaoui (Algeria/ICJ), Andres Gros (France/ICJ); 94 RGDIP 204 (1990); 83 ILR 1; No.443/Stuyt; Charney/ASIL Report No.4-4 (Adede) & (4)/(5) (Prescott). See also *infra*.

1992 *Canada/France (St. Pierre & Miquelon) Delimitation of the Maritime Areas Award*, Arbitral Tribunal: President Eduardo Jimenez de Arechaga (Uruguay/ICJ), Allan E. Gotlieb (Canada), Prosper Weil (France), Gaetano Arangio-Ruiz (Italy), Oscar Schachter (USA); 31 ILM 1165 (1992); 96 RGDIP 673 (1992); No.450/Stuyt; RIAA XXI, 267; Charney/ASIL Report No.1-2 (Smith) & Add.2 (Schneider). See also *infra*.

1993 *UN Iraq/Kuwait Boundary Demarcation Commission*, Members: Chairman Nicolas Valticos (Switzerland), Riyadh Al-Qaysi (Iraq), Tarek A. Razzouki (Kuwait), Ian Brook (Sweden), William Robertson (New Zealand); UN Security Council Resolution 833 of 27 May 1993; 32 ILM 1425 (1993).

1998 *Eritrea/Yemen Territorial Sovereignty and Scope of the Dispute (Phase I) Award*, and 1999 *Eritrea/Yemen Maritime Delimitation (Phase II) Award*, PCA 1999, 196; 114 ILR 1; 120 ILR 1; 40 ILM 900, 983 (2001); Arbitrators: President Sir Robert Jennings (UK/ICJ), Rosalyn Higgins (UK/ICJ), Stephen M. Schwebel (USA/ICJ), Ahmed S. El-Kosheri (Egypt), Keith Highet (USA); <<http://www.pca-cpa.org>>. See also *infra*.

Press Statement of Eritrea's Ministry of Foreign Affairs of 20 December 1999, UN Doc. S/1999/1265. For Interview with Yemen's Vice-Minister of Foreign Affairs, see <www.y.net.ye/yementimes/99/iss51/interview.html>.

On 1994 *Eritrea/Yemen Memorandum* and 1998 *Joint Committee for Bilateral Cooperation Treaty*, see *Protection and Preservation of the Marine Environment infra*.

2001 *Newfoundland and Labrador/Nova Scotia Limits of Their Offshore Areas (Phase I) Award* <<http://www.bissettmatheson.com/arbitration/>>, and 2002 *(Phase II) Award* <in press> Arbitrators: President Gerard V. La Forest (Canada), Leonard H. Legault (Canada), James R. Crawford (UK).

2002 *UN Eritrea/Ethiopia Boundary Commission*, Members: President Sir Elihu Lauterpacht (UK), Stephen M. Schwebel (USA), Bola Ajibola (Nigeria), Sir Arthur Watts (UK), W. Michael Reisman (USA); UN Security Council Resolution 1320 of 15 September 2000; Algiers Peace Agreement (Article 4), UN Doc. A/55/686-S/2000/1183, 40 ILM 260 (2001); UN Secretary-General Reports, Docs S/2001/45, paras 4-6; S/2001/1194; A/56/1, para.53 (2001); S/2002/129 <<http://www.pca-cpa.org>>. For texts of colonial treaties, see <http://www.geocities.com/CollegePark/Quad/6460/hf/98_6/index.html>.

See also *Settlement of Disputes – Definition of Obligation to Negotiate; and Equity infra*.

“The delimitation of sea areas has always an international aspect”

Anglo/Norwegian Fisheries Judgment, ICJ Rep. 1951, 132; Pleadings, Vol.II, 429 [UK Reply], Vol.IV, 395-397 [Counsel Waldock, 18 October 1951]; *North Sea* Judgment, ICJ Rep. 1969, 46, Separate O. Padilla Nervo, 91; Pleadings, Vol.I, 177 [Denmark’s Counter-Memorial], 331 [NL Counter-Memorial], 505 [D/NL Common Rejoinder], Vol.II, 104 [Counsel Sir Humphrey Waldock, 29 Oct 1968], 172-173 [Agent Jaenicke, 4 Nov 1968]; *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 22, 24, 191, 193, Separate O. de Castro, 80, 95, 96; Pleadings (UK), 318 [Memorial (Merits)], 458 [Counsel Silkin, 25 March 1974], (FRG), 105 [Memorial (Jurisdiction)], 230 [Memorial (Merits)]; *Aegean Sea (Jurisdiction)* Dissent Stassinopoulos, ICJ Rep. 1978, 77-79; Pleadings, 244 [Greece’s Memorial (Jurisd.)], 421 [Counsel Weil, 13 Oct 1978]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 67; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/7 [trans.], 5-6 [Counsel Weil, 23 April 1991]; *Denmark v. Norway* Separate O. Shahabuddeen, ICJ Rep. 1993, 150-151; Oral Hearings, CR 93/3, 8 [Agent Magid, 13 Jan 1993]; *Cameroon v. Nigeria* Oral Hearings, CR 98/4, 38 [Adviser Bipoun Woum, 6 March 1998].

M/V Saiga (Merits) Reply of Saint Vincent and the Grenadines, para.19, and Oral Hearings, ITLOS/PV.99/7, 9 [Counsel Thiam, 11 March 1999].

Truman Proclamation

On reference to “equitable principles” in Truman Proclamation on the Continental Shelf of 28 September 1945 [40 AJIL 45 (1946)], see *North Sea* Judgment, ICJ Rep. 1969, 32-33, 47, 51, 53, Separate O. President Bustamante y Rivero, 58, Separate Os Padilla Nervo, 95, 96, 97, Ammoun, 104, 105-106, 126, 128, 146, Dissent Vice-President Koretsky, 157, 158, 166, Dissents Tanaka, 171, 174, Sorensen, 245; *North Sea* Pleadings, Vol.I, 31 [FRG Memorial], Vol.II, 55 [Counsel Shigeru Oda, 25 Oct 1968], 97-98 [Counsel Sir Humphrey Waldock, 29 Oct], referring to “self-protection” concept, 258 [Reply by Waldock to Questions Fitzmaurice, 8 Nov], 280 [Waldock, 11 Nov 1968]; *Fisheries Jurisdiction* Pleadings (UK), 328 [Memorial (Merits)]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 43, 92, Separate O. de Arechaga, 111, 121, 123-124, Dissent Oda, 174, 176, 184, 191, 255; *Gulf of Maine* Judgment, ICJ Rep. 1984, 293, 306, Dissent Gros, 367-368; Pleadings, Vol.II, 48 [US Memorial], Vol.V, 393 [US Reply], Vol.VI, 233, 245 [Agent Robinson, 11 April 1984], Vol.VII, 17 [Agent Legault, 3 May 1984]; *Libya/Malta (Merits)* Dissent Oda, ICJ Rep. 1985, 159; Pleadings, Vol.I, 99, 103, 111, 112 [Libya’s Memorial], Vol.II, 107 [Libya’s Counter-Memorial], Vol.III, 97-98 [Libya’s Reply]; *Denmark v. Norway* Separate Os Weeramantry, ICJ Rep. 1993, 258, Ajibola, 293-294; Denmark’s

Reply, para.443; *Qatar v. Bahrain (Merits)* Separate O. Oda, ICJ Rep. 2001 (in press), paras 31, 36.

Geographical Factors

Anglo/Norwegian Fisheries Judgment, ICJ Rep. 1951, 133, 139; *North Sea* ICJ Rep. 1969, 3 – Judgment, 29-32, 35, 36-37, 45, 49-51, 54, para.101(D), Separate O. President Bustamante y Rivero, 61-62, 65, Separate Os Jessup, 76, Padilla Nervo, 92-94, Ammoun, 150-151, Dissents Koretsky, 155, Morelli, 199-200, 208-210, Lachs, 239, Sorensen, 249-256; *Aegean Sea (Jurisdiction)* Dissent de Castro, ICJ Rep. 1978, 65-66; *Tunisia/Libya (Intervention)* Judgment, ICJ Rep. 1981, 9, 12-13, 16-18, Separate Os Oda, 33-34, Schwebel, 36-39, (*Merits*) Judgment, ICJ Rep. 1982, 34-35, 47, 61-64, 82-83, 86-87, 92-93, Separate O. de Arechaga, 132-137; *Gulf of Maine* Judgment, ICJ Rep. 1984, 268-273, 296-303, 318-320, 327-334, Separate O. Schwebel, 353-359, Dissent Gros, 374-381; Pleadings, Vols I-VIII; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 11, Dissents Sette-Camara, 78, 81-83, Schwebel, 133, Sir Robert Jennings, 151, 155; *Gulf of Fonseca (Intervention)* Judgment, ICJ Rep. 1990, 100-101, 124-128, (*Merits*) Judgment, ICJ Rep. 1992, 586-588; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 64, Separate O. Weeramantry, 262-263.

See also Equidistant Line, Natural Prolongation, Islands and Proportionality *infra*; Internal Waters, Territorial Sea and Baselines – Land Dominates the Sea Principle *supra*; Enclosed or Semi-Enclosed Seas *infra*.

Equidistant (Median) Line/Special (Relevant) Circumstances

North Sea ICJ Rep. 1969, 3 – Judgment, 17-18, 20-21, 23-27, 31-46, 47, 49-50, 53, para.101(A), Declarations Sir Muhammad Zafrulla Khan, 54-56, Bengzon, 56, Separate O. President Bustamante y Rivero, 62-65, Separate Os Padilla Nervo, 85-99, Ammoun, 120-131, 143-145, 148-152, Dissent Vice-President Koretsky, 154-170, Dissents Tanaka, 171-196, Morelli, 197-217, Lachs, 218-240, Sorensen, 241-257; *North Sea* Pleadings, Vol.I, 37-75 [FRG Memorial], 178-221 [Denmark's Counter-Memorial], 330-375 [NL Counter-Memorial], 396-416 [FRG Reply], 474-535 [Common Rejoinder of Denmark/NL], Vol.II, 11-36 [Agent Jaenicke, 23 and 24 Oct 1968], 138-139 [Agent Riphagen, 31 Oct], 153-162 [Agent Jacobsen, 31 Oct and 1 Nov], 163 [Questions Sir Gerald Fitzmaurice], 166-177 [Jaenicke, 4 Nov], 249-266 [Reply by Counsel Waldock to Questions Fitzmaurice, 8 Nov], 278-283 [Waldock, 11 Nov], 283-284 [Riphagen]; *Fisheries Jurisdiction (Merits)* Separate Os de Castro, ICJ Rep. 1974, 99, 225; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 8; Pleadings, 10 [Greece's Application], 170-173 [Grisel's Draft]; *Tunisia/Libya (Intervention)*

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See also Settlement of Disputes – Maritime Boundary Disputes *infra*.

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Economic Factors

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Mineral Resource Factors

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For 1994 *Horta v. Commonwealth* case, in which the three East Timorese plaintiffs challenged the validity of Australian 1990 legislation implementing the 1989 Treaty, see 123 ALR 1. For Portugal's Note Verbale to Australia of 28 August 1997, see *UN LOS Bull.* 97 (1997 No.35), and for Portugal's Declaration (para.5) upon ratifying the LOSC and Part XI Agreement on 3 November 1997, see *id.* 13, and 7 (1998 No.36).

On the Timor Gap Treaty ceasing to be in force as between Australia and Indonesia, and on its terms continuing to apply as between Australia and the UN Transitional Administration in East Timor (UNTAET), in pursuance of their Memorandum of Understanding and the new Agreement, see Joint Media Release <http://www.dfat.gov.au/media/releases/downer/fa010_2000.html>; *UN LOS Bull.* 175-178 (2000 No.42); *Southern Bluefin Tuna (Jurisdiction) Hearings*, Vol.II [Counsel Irwin, 8 May 2000] <<http://www.worldbank.org/icsid>>; UN Docs IMO MSC 72/23, para.10.75 and MSC 73/21, para.11.33 (2000).

Botswana/Namibia Dissent Vice-President Weeramantry, paras 102-113, ICJ Rep. 1999, 1188-1194 <<http://www.icj-cij.org>>; *Qatar v. Bahrain (Merits) Judgment*, ICJ Rep. 2001 (in press), paras 49-54, 61, 102, 108, 159, 161, 237-240, Separate O. Oda, paras 14-15, 41, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 24-30, 77, 206-212, 215, Separate O. Kooymans, paras 12-13, 60, Dissent Torres Bernardez, paras 277-283, 401, 419, 491-502; Oral Hearings, CR 2000/6, 19-32 [Counsel Shankardass, 30 May 2000], CR 2000/7, 25-44 [31 May], CR 2000/10, 24-41 [Counsel Salmon, 6 June], CR 2000/14, 20-32 [Counsel Paulsson, 13 June 2000] <<http://www.icj-cij.org>>.

For reliance on Judge Jessup's analysis [ICJ Rep. 1969, 66-84], see *Fisheries Jurisdiction (Merits) Separate O. Dillard*, ICJ Rep. 1974, 70; *Tunisia/Libya (Merits) Separate O. de Aréchaga*, ICJ Rep. 1982, 121-122, Dissent Evensen, 322; *Gulf of Maine Dissent Gros*, ICJ Rep. 1984, 374; Pleadings, Vol.III, 57, 189-190, 195-197, 219-220 [Canada's Counter-Memorial], Vol.VI, 121-122

[Counsel Fortier, 4 April 1984], Vol.VII, 78 [Counsel Binnie, 4 May 1984]; *Libya/Malta* Pleadings, Vol.I, 472 [Malta's Memorial]; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.108, ICJ Rep. 1999, 1190 <<http://www.icj-cij.org>>; 1999 *Eritrea/Yemen (Phase II)* Award [*supra*], para.84.

On Japan/South Korea Joint Development Agreement of 30 January 1974 [in force: 22 June 1978, ASIL/Charney Report No.5-12 (Choon-ho Park)], which was the first bilateral scheme to follow upon the *North Sea* Judgment, see *Gulf of Maine* Pleadings, Vol.IV, 440 [US Counter-Memorial], Vol.V, 161 [Canada's Reply], State Practice Vol.I, 323; *Libya/Malta* Pleadings, Vol.II, 109, 134-135 [Libya's Counter-Memorial], Vol.III, 38 [Libya's Reply], Vol.IV, 315 [Counsel Brownlie, 8 Feb 1985]; *Denmark v. Norway* Oral Hearings, CR 93/4, 32 [Counsel Bowett, 14 Jan 1993], CR 93/7, 75-76 [Counsel Brownlie, 19 Jan], CR 93/10, 64 [Bowett, 25 Jan 1993].

On 1988 Tunisia/Libya Benghazi Joint Development (El Bouri Field) Agreements, see *Tunisia/Libya* case *supra*.

On 1993 Guinea-Bissau/Senegal Dakar Agreement and its 1995 Protocol, see *Guinea-Bissau v. Senegal* case *supra*.

1981 *Iceland/Norway* Conciliation [*infra*]; 1981 *Dubai/Sharjah* Award [*infra*]; 1985 *Guinea/Guinea-Bissau* Award [*infra*]; 1989 *Guinea-Bissau/Senegal* Award [*infra*]; 1998 *Eritrea/Yemen (Phase I)* Award, paras 55-72, 110, 346, 389-439, 481, 497-506, 517-521 and 1999 (*Phase II*) Award, paras 75-86, 132, Annex II: Yemen's Answer to Judge Schwebel's Question [*supra*]; 2001 *Newfoundland and Labrador/Nova Scotia (Phase I)* Award <<http://www.bissettmatheson.com/arbitration/>>.

Fishery Resource Factors

Anglo/Norwegian Fisheries ICJ Rep. 1951, 116 – Judgment, 127-128; *North Sea* Separate O. Jessup, ICJ Rep. 1969, 66, 80, 82-83, Separate O. Padilla Nervo, 93, Dissent Sorensen, 254; *North Sea* Pleadings, Vol.I, 69, 78 [FRG Memorial], 364 [NL Counter-Memorial]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 67-68, 70, 72-73, 75, 77, 83-84, 86, 92, Separate Os Ago, 95-98, Schwebel, 99, de Arechaga, 122-132, 136, Dissents Gros, 154-155, Oda, 188, 197-211, 232, Evensen, 306-307, 317; *Gulf of Maine* Judgment, ICJ Rep. 1984, 275-278, 281-287, 298, 309, 316-317, 319, 340-344, Dissent Gros, 370, 373-374; Pleadings, Vol.I, 56-114, 128-133, 150-151 [Canada's Memorial], Vol.II, 19-33, 68-69, 75-76, 95-98, 112-114 [US Memorial], Vol.III, 83-89, 141-146, 190-198, 222-228, 237 [Canada's Counter-Memorial], Vol.IV, 30-49, 66-70, 80-84, 134-151, 166, 465-467 [US Counter-Memorial], Vol.V, 30-36, 94-126 [Canada's Reply], 401-404, 423-424, 447, 474-482 [US Reply], Vol.VI, 44-49 [Agent Legault, 3 April 1984], 380-394 [Counsel Feldman, 16 April 1984]; *Libya/Malta* Pleadings, Vol.I,

483, 485, 498 [Malta's Memorial], Vol.II, 63-67, 220-226 [Libya's Counter-Memorial], Vol.III, 146 [Malta's Reply], 327-328, 330 [Counsel Lauterpacht, 27 Nov 1984], Vol.IV, 139 [Counsel Lucchini, 12 Dec], Vol.VII, 87-93 [Counsel Binnie, 4 May], 268 [Agent Robinson, 11 May 1984]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 70-73, 79-82, Declaration Evensen, 85, Separate Os Oda, 115-117, Schwebel, 118-120, 123, 126-129, Weeramantry, 268-270, Dissent Fischer, 310-313; Oral Hearings, CR 93/4, 24-29 [Counsel Bowett, 14 Jan 1993]; *Botswana/Namibia* Dissent Vice-President Weeramantry, paras 102-113, ICJ Rep. 1999, 1188-1194; *Qatar v. Bahrain (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1994, 118, Dissent Oda, 144-145, 147, (*Jurisdiction and Admissibility*) Judgment, ICJ Rep. 1995, 10, 12, 25, Dissent Oda, 42, (*Merits*) Judgment, ICJ Rep. 2001 (in press), paras 32-34, 101-102, 128, 155-156, 235-236, Dissent Torres Bernardez, paras 389, 394, 399, 471; Oral Hearings, CR 94/4, 45 [Counsel Bowett, 4 March 1994], CR 94/5, 43 [Counsel de Archaga, 7 March 1994], CR 2000/10, 19-23 [Counsel Salmon, 6 June 2000], CR 2000/15, 14-16 [Counsel Reisman, 14 June], CR 2000/17, 30-33 [Counsel Shankardass, 20 June 2000] <<http://www.icj-cij.org>>.

On Australia/Papua New Guinea Torres Strait Treaty (Joint Protected Zone) of 18 December 1978 [18 ILM 291 (1979)], see *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 234; Pleadings, Vol.II, 212, 268 [Libya's Counter-Memorial], Vol.V, 246 [Question II of Judge Schwebel, 9 Oct 1981], 504 [Libya's Reply to Schwebel]; *Gulf of Maine* Pleadings, Vol.IV, 443 [US Counter-Memorial], Vol.VI, 169 [Counsel Weil, 5 April 1984], State Practice Vol.I, 529; *Libya/Malta* Pleadings, Vol.II, 112 [Libya's Counter-Memorial], 344 [Malta's Counter-Memorial], Vol.III, 45 [Libya's Reply], 256 [Malta's Reply], Vol.IV, 116 [Counsel Colliard, 11 Dec 1984]; *Great Belt* Pleadings, 329 [Finland's Memorial]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/45, 19 [Counsel Bowett, 10 June 1991], CR 91/46, 52-53 [Counsel Lauterpacht, 11 June], CR 91/47, 27 [Bowett, 12 June], CR 91/48, 29 [Lauterpacht, 13 June 1991]; *Denmark v. Norway* Oral Hearings, CR 93/10, 63 [Counsel Bowett, 25 Jan 1993]; *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.140 <<http://www.worldbank.org/icsid>>.

1909 *Norway v. Sweden Grisbadarna* Award; 1985 *Guinea/Guinea-Bissau* Award; 1992 *Canada/France* Award, Dissent Weil; 1999 *Eritrea/Yemen (Phase II)* Award – *infra*.

See also Regime of Islands *infra*.

Islands

Minquiers and Ecrehos Pleadings, Vol.I, 51 [UK Memorial]; *North Sea* Judgment, ICJ Rep. 1969, 20, para.13, and 36, para.57, referring to “an islet or

small protuberance” and “islets, rocks and minor coastal projections” [They included for the FRG: Borkum, Nordstrand, Pellworm, Helgoland (outside TS), Die, Amrun, Fohr and Sylt; for Denmark: Fanö, Mandö and Röm; and for the Netherlands: Texel, Vlieland, Terschelling, Ameland and Schiermonni-Koog], Separate Os Padilla Nervo, 93-94, Ammoun, 149, 151, Dissents Morelli, 201, 206, 207, 208, Lachs, 239, Sorensen, 249, 254; *North Sea Pleadings*, Vol.I, 18, 68-71, 74, 77 [FRG Memorial], 160, 181, 203, 210-213 [Denmark’s Counter-Memorial], 357, 359, 362, 363-365 [NL Counter-Memorial], 420 [FRG Reply], Vol.II, 27-28, 33, 35, 44, 46 [Agent Jaenicke, 23 and 24 Oct 1968], 72-74 [Agent Riphagen, 28 Oct], 85, 86, 103 [Counsel Sir Humphrey Waldock, 28 and 29 Oct], 141, 147, 149-150 [Agent Jacobsen, 31 Oct], 163 [Questions Sir Gerald Fitzmaurice, 1 Nov], 190, 204, 208 [Jaenicke, 4 and 5 Nov], 247, 248, 252 [Reply by Waldock to Questions Fitzmaurice, 8 Nov], 271-273 [Waldock, 11 Nov 1968], 348 [map].

On Turkey’s perception of the Greek islands as “mere protuberance”, see *Aegean Sea (Jurisdiction) Judgment*, ICJ Rep. 1978, 35, 37; *Pleadings*, 93-94 [Counsel O’Connell, 26 Aug 1976].

Tunisia/Libya (Intervention) Judgment, ICJ Rep. 1981, 17, (*Merits*) *Judgment*, ICJ Rep. 1982, 35-36, 41-42, 62-64, 74, 85, 88-90, 93-94, para.133 B(3) and C(3), Separate Os Schwebel, 99, de Arechaga, 122, 133, 135-136, Dissents Gros, 149-150, Oda, 185-188, 235-237, 262-267, 268-269, 270-274, Evensen, 283, 285, 293, 296-304, 310, 313-317, (*Revision*) *Judgment*, ICJ Rep. 1985, 210, 226-227, Separate Os Oda, 243, Bastid, 242; *Pleadings*, Vol.IV, 414-415 [Counsel Jennings, 16 Sep 1981]; *Gulf of Maine Judgment*, ICJ Rep. 1984, 268-273, 284-286, 322, 325, 328, 329, 332, 336-337, Dissent Gros, 380, 387; *Pleadings*, Vol.I, 134-137, 141 [Canada’s Memorial], Vol.II, 86, 90, 111 [US Memorial], Vol.III, 140, 254-257 [Canada’s Counter-Memorial], Vol.V, 454, 475 [US Reply], Vol.VI, 461 [Question I.2 of Judge Gros, 19 April 1984], 463 [Question V of Judge Mosler, 19 April], Vol.VII, 36 [Counsel Weil’s Reply to Gros, 4 May], 73-74 [Deputy Agent Hankey’s Reply to Mosler, 4 May], 181 [Counsel Stevenson’s Reply to Gros, 9 May], 232-233 [Counsel Colson, 10 May 1984]; *Libya/Malta (Intervention) Judgment*, ICJ Rep. 1984, 17, (*Merits*) *Judgment*, ICJ Rep. 1985, 42-43, 47-52, Joint Separate O., 86, Separate O. Valticos, 107, Dissents Mosler, 120, Oda, 135, 139, 146-148, 163-165, 167-169, Schwebel, 178-179; *Pleadings*, Vol.I, 122-124, 128-131, 134, 155-161, 166-169 [Libya’s Memorial], 440-475, 497-499 [Malta’s Memorial], Vol.II, 26-33, 89-100, 125-135 [Libya’s Counter-Memorial], 313, 329-330, 358-361 [Malta’s Counter-Memorial], Vol.III, 36-40, 90 [Libya’s Reply], 194-197, 205-207, 247-257 [Malta’s Reply], Vol.IV, 431-432 [Counsel Jaenicke, 21 Feb 1985], 446, 450-451 [Counsel Queneudec]; *Arbitral Award Dissent Weeramantry*, ICJ Rep. 1991, 169; *Denmark v. Norway*,

Qatar v. Bahrain, Nicaragua v. Honduras and Nicaragua v. Colombia cases – see *supra*.

1909 *Norway v. Sweden Grisbadarna* Award; 1977/1978 *Anglo/French Continental Shelf* Decisions; 1977/1984 *Argentina/Chile Beagle Channel* case; 1981 *Iceland/Norway* Conciliation; 1981 *Dubai/Sharjah* Award; 1985 *Guinea/Guinea Bissau* Award; 1989 *Guinea-Bissau/Senegal* Award; 1992 *Canada/France* Award, Dissents Gotlieb, Weil; 1998 *Eritrea/Yemen (Phase I)* and (*Phase II*) Awards – *infra*.

Islands on the Wrong Side of the Median Line

Aegean Sea (Interim Measures) Order, ICJ Rep. 1976, 4, 6-7, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 6, 8, 33-37, Dissent de Castro, 66; Pleadings, 3-11 [Greece's Application], 92-110 [Counsel O'Connell, 25 Aug 1976], 128-131 [Counsel Pinto, 26 Aug 1976], 445-446 [16 Oct 1978]; *Libya/Malta (Merits)* Dissent Oda, ICJ Rep. 1985, 146-148; Pleadings, Vol.II, 97 [Libya's Counter-Memorial]; *Denmark v. Norway* case – see *supra*, and Norway's Counter-Memorial, para.472, Denmark's Reply, para.299, Norway's Rejoinder, paras 459-461; Oral Hearings, CR 93/8 [trans.], 56-57 [Counsel Weil, 20 Jan 1993]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/11, 34-35 [Counsel Lauterpacht, 8 June 2000].

On 1978 *Australia/Papua New Guinea* Treaty, see Economic Factors *supra*.

1977/1978 *Anglo/French Continental Shelf* Decisions [*infra*]; 1985 *Guinea/Guinea-Bissau* Award, paras 103, 106-111 [*supra*].

See also Regime of Islands *infra*.

Historic Factors

– see Internal Waters, Territorial Sea and Baselines, Historic Titles and Historic Bays, *supra*.

Security Factors

Anglo/Norwegian Fisheries Pleadings, Vol.I, 534, 572 [Counter-Memorial of Norway], Vol.II, 659, 663-664, 676, 679 [UK Reply], Vol.IV, 41-42 [Agent Sir Eric Beckett, 25 Sep 1951]; *North Sea* Separate O. Padilla Nervo, ICJ Rep. 1969, 93, Dissent Koretsky, 155; Pleadings, Vol.I, 364 [NL Counter-Memorial]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 256; Pleadings, Vol.V, 276-277 [Counsel Jennings, 13 Oct 1981]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 278, 340-341, 342; Pleadings, Vol.II, 46-47, 114 [US Memorial], Vol.III, 19, 168-169, 226, 374-380 [Canada's Counter-Memorial], Vol.IV, 137 [US Counter-

Memorial], Vol.V, 36, 78 [Canada's Reply], 654-655, 660 [US Reply], Vol.VI, 140 [Counsel Bowett, 5 April 1984], 278-279 [Counsel Stevenson, 12 April], 351-353 [Counsel Rashkow, 16 April 1984], Vol.VIII, 28 [Fig.14], 105 [Fig.17], 106 [Fig.18]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 41-42, 52, Separate O. Valticos, 112-113; Pleadings, Vol.I, 103, 128 [Libya's Memorial], 420, 483, 498-499, 514 [Malta's Memorial], Vol.II, 71-75 [Libya's Counter-Memorial], 328-329, 349, 360-361, 367, 369, 373-374, 376 [Malta's Counter-Memorial], Vol.III, 52, 67 [Libya's Reply], 325 [Counsel Lauterpacht, 27 Nov 1984], Vol.IV, 136-138 [Counsel Lucchini, 12 Dec 1984], 321-323 [Lauterpacht, 11 Feb 1985], 405 [Agent Mizzi, 13 Feb 1985]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 74-75, Separate Os Schwebel, 119, Weeramantry, 262, 271-272; Norway's Counter-Memorial, paras 74-77, 561-566, Norway's Rejoinder, para.529; Oral Hearings, CR 93/1Corr., 28-29 [Agent Lehmann, 11 Jan 1993], CR 93/7, 11, 36 [Counsel Brownlie, 19 Jan 1993]; *Qatar v. Bahrain (Merits)* Dissent Torres Bernardez, para.519, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/5 [trans.], 39 [Counsel Salmon, 29 May 2000], CR 2000/22, 29 [Counsel Volterra, 28 June 2000].

1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment [*supra*]; 1977 *Anglo/French* Decision [*supra*], paras 161-163, 175-176, 188, 197; 1985 *Guinea/Guinea-Bissau* Award [*supra*], para.124; 1988 *Taba* Award [*supra*], paras 22, 30, 38, 69; 1992 *Canada/France* Dissent Weil [*supra*], paras 31-33, 35; 1999 *Eritrea/Yemen (Phase II)* Award [*supra*], para.21.

Navigational Factors

North Sea Separate Os Padilla Nervo, ICJ Rep. 1969, 93-94, Ammoun, 149, Dissents Lachs, 239, Sorensen, 254; Pleadings, Vol.I, 68-70, 78 [FRG Memorial], 181 [Denmark's Counter-Memorial], 357, 364 [NL Counter-Memorial], 420 [FRG Reply], Vol. II, 46 [Agent Jaenicke, 24 Oct 1968], 69 [Agent Jacobsen, 28 Oct 1968]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 185-188; *Gulf of Maine* Judgment, ICJ Rep. 1984, 340-341, 342, 343-344; Pleadings, Vol.II, 38-43, 46-47, 114 [US Memorial], Vol.III, 19, 56-58, 166-167, 225-226, 381-385 [Canada's Counter-Memorial], Vol.IV, 137 [US Counter-Memorial], Vol.V, 36, 78 [Canada's Reply], Vol.VI, 139 [Counsel Bowett, 5 April 1984], 278-279 [Counsel Stevenson, 12 April], 351-353 [Counsel Rashkow, 16 April], Vol.VII, 17 [Agent Legault, 3 May 1984], Vol.VIII, 27 [Fig.13], 104 [Fig.16]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 42, 52; Pleadings, Vol.I, 128 [Libya's Memorial], 479, 483 [Malta's Memorial], Vol.II, 73 [Libya's Counter-Memorial], 251, 328-329, 367 [Malta's Counter-Memorial], Vol.IV, 321-323 [Counsel Lauterpacht, 11 Feb 1985], 438 [Counsel Jaenicke, 21 Feb 1985]; *Gulf of Fonseca (Intervention)* Judgment, ICJ Rep. 1990, 125;

Denmark v. Norway Separate O. Schwebel, ICJ Rep. 1993, 119, 122-123; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 283; *Qatar v. Bahrain (Merits)* Separate O. Oda, para.18, ICJ Rep. 2001 (in press).

1909 *Norway v. Sweden Grisbadarna* Award [*supra*]; 1977 *Anglo/French* Decision [*supra*], paras 161-163, 175-176, 188, 197, rejecting the French arguments based on security considerations concerning risk to French submarines based in Cherbourg and to navigational routes for merchant vessels serving French ports; 1977/1984 *Argentina/Chile Beagle Channel* case [*infra*]; 1981 *Dubai/Sharjah* Award [91 ILM 660-663]; 1985 *Guinea/Guinea-Bissau* Award, paras 25, 105, 121 [25 ILM 266, 295, 301 (1986)]; *Canada/France* Dissent Weil [*supra*], para.35; 1998 *Eritrea/Yemen (Phase I)* Award, paras 77, 93, 125, 478, and 1999 (*Phase II*) Award, paras 26, 45-46, 107-109, 124-125, 128, 155 [*supra*].

See also International Waters, Territorial Sea and Baselines – Maintenance of Navigational Aids and Territorial Sovereignty; Access to, Jurisdiction and Treatment in Ports – Ports/Oil and Gas Development *supra*.

Environmental Factors

Tunisia/Libya Pleadings, Vol.I, 77-79 (ecological unity/climate) [Tunisia's Memorial], Vol.II, 153-154 [Libya's Counter-Memorial]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 275-277, 279, 286, 316-317, 319-320, 326-327, Dissent Gros, 370; Pleadings, Vol.II, 16-22, 112 [US Memorial], Vol.III, 83, 170, 352-361 [Canada's Counter-Memorial], Vol.IV, 22-23, 130-133, 152-153, 166, 259-271 [US Counter-Memorial], Vol.V, 5, 36, 64-65, 73, 342-343 [Canada's Reply], 440, 464-470, 529-537 [US Reply], Vol.VII, 112-117, 123-124 [Counsel Fortier, 5 May 1984], 250-251 [Counsel Colson, 11 May], 269-271 [Agent Robinson, 11 May 1984]; *Arbitral Award* Dissent Weeramantry, ICJ Rep. 1991, 169; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 44, 72-73, Separate Os Oda, 116, Schwebel, 120, Weeramantry, 271, 276-278, Ajibola, 298, Dissent Fischer, 309; Oral Hearings, CR 93/5, 38-39 [Agent Tresselt, 15 Jan 1993], CR 93/10, 76-77 [Counsel Lynge, 25 Jan 1993].

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 163, 175; *Canada/France* Dissent Weil [31 ILM 1211 (1992)], para.35; 1999 *Eritrea/Yemen (Phase II)* Award [*supra*], para.108.

See also Regime of Islands – Environmental Factors in Disputes Over Territorial Sovereignty *infra*.

Proportionality

North Sea Judgment, ICJ Rep. 1969, 49, para.89, at 52, para.98, at 54, para.101(D)(2), Separate O. President Bustamante y Rivero, 58-59, Separate O. Ammoun, 148, Dissents Tanaka, 188-189, Lachs, 239, Sorensen, 255-256; Pleadings, Vol.I, 468-469 [Common Rejoinder of Denmark/NL], Vol.II, 145, 150 [Agent Jacobsen, 31 Oct 1968]; *Tunisia/Libya (Intervention)* Judgment, ICJ Rep. 1981, 17, (*Merits*) Judgment, ICJ Rep. 1982, 62, 72, 75-76, 80, 91, 93, para.133 B(5), Separate O. de Arechaga, 137-139, Dissents Gros, 149-152, Oda, 258-260, 267, Evensen, 311-314, (*Revision*) Judgment, ICJ Rep. 1985, 226; *Gulf of Maine* Judgment, ICJ Rep. 1984, 318, 322-323, 335-336, Separate O. Schwebel, 354-359 [incl. Map], Dissent Gros, 381-385; Pleadings, Vol.I, 146-152 [Canada's Memorial], Vol.II, 86, 94 [US Memorial], Vol.III, 183-186, 247-251, 261-268 (264 Fig.51A) [Canada's Counter-Memorial], Vol.IV, 16-17, 127-130 [US Counter-Memorial], Vol.V, 128, 143-147 [Canada's Reply], 401, 431, 482-491 (485 Fig.51A), [US Reply], Vol.VI, 49 [Agent Legault, 3 April 1984], 74-86 [Deputy Agent Hankey, 4 April], 206-219 [Counsel Malintoppi, 10 April], 293-295 [Counsel Colson, 12 April], 310-315 [Colson, 13 April], 328-336 [Counsel Feldman, 13 April], 464 [Question 2 of Judge Schwebel, 19 April], Vol.VII, 126-134 [Malintoppi's Reply to Schwebel, 5 May, with err. at 377], 215, 216 [Fig.51A], 234-235 [Colson's Reply, 10 May 1984], Vol.VIII, 55 [Fig.13], 76 [Fig.51], 256 [Fig.171]; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 24-25, (*Merits*) Judgment, ICJ Rep. 1985, 43-46, 49-50, 53-56, 57, para.79B, Separate O. Sette-Camara, 72-75, Joint Separate O., 82-92, Separate O. Valticos, 109-113, Dissents Oda, 132-134, Schwebel, 181-187; Pleadings, Vol.I, 132-134, 156-157, 173-178 [Libya's Memorial], 435-439, 492-493 [Malta's Memorial], Vol.II, 90-94, 144-152 [Libya's Counter-Memorial], 256-257, 331-345 [Malta's Counter-Memorial], Vol.III, 87-95 [Libya's Reply], 214-225 [Malta's Reply], 321 [Counsel Lauterpacht, 27 Nov 1984], 454-476 [Counsel Brownlie, 3 Dec 1984], Vol.IV, 432-434 [Counsel Jaenicke, 21 Feb 1985]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 48, 65-69, 81, Declaration Aguilar Mawdsley, 86, Separate Os Oda, 115-116, Schwebel, 120-129, Shahabuddeen, 159-191, Weeramantry, 272-273, Ajibola, 301, Dissent Fischer, 308-309; Oral Hearings, CR 93/2, 77-80 [Counsel de Arechaga, 12 Jan 1993], CR 93/4, 41-52 [Agent Bernhard, 14 Jan], CR 93/7, 54-71 [Counsel Brownlie, 19 Jan], CR 93/9 [trans.], 2-22 [Counsel Weil, 21 Jan 1993]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 241-243, Dissent Torres Bernardez, paras 520-522; Oral Hearings, CR 2000/9 [trans.], 32-41 [Counsel Queneudec, 5 June 2000].

1977/1978 *Anglo/French Continental Shelf* Decisions [*infra*]; 1985 *Guinea/Guinea-Bissau* Award [*supra*], paras 118-120; 1992 *Canada/France*

Award, paras 60-63, 92-93, Dissents Gotlieb, Weil [*infra*]; 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award [*supra*], paras 20, 39-43, 117, 165-168.

On the methods of the *tracé parallèle* and the *courbe tangente* (envelopes of arcs-of circles), see Internal Waters, Territorial Sea and Baselines, TS Breadth and Outer Limit *supra*.

On the practice of CEP regarding delimitation (by parallel of geographical latitude, and not equidistance) of their CS/EEZ, see *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 126; *North Sea* Pleadings, Vol.I, 437-438 [FRG Reply], 496 [Common Rejoinder of Denmark/NL], Vol.II, 58 [Counsel Oda, 25 Oct 1968], 101, 112 [Counsel Sir Humphrey Waldock, 29 and 30 Oct], 258 [Waldock, 8 Nov 1968]; *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 308; *Gulf of Maine* Pleadings, Vol.II, 101 [US Memorial], Vol.III, 239 [Canada's Counter-Memorial], Vol.IV, 444-445 [US Counter-Memorial], Vol.VII, 219 [Counsel Colson, 10 May 1984], Vol.VIII, 265 [Figures], State Practice Vol.I, 69, 73; *Libya/Malta* Pleadings, Vol.II, 110 n.5, 111 [Libya's Counter-Memorial], 298 [Malta's Counter-Memorial]; *Denmark v. Norway* Oral Hearings, CR 93/4, 15 [Counsel Bowett, 14 Jan 1993].

Thalweg Principle/Lakes and Rivers

Honduras v. Nicaragua Arbitral Award of 23 December 1906 Judgment, ICJ Rep. 1960, 202-203, 212, 216-217; *North Sea* Judgment, ICJ Rep. 1969, 45, para.80, Separate O. Ammoun, 124-125, 126, 128, Dissents Tanaka, 175, Lachs, 222; Pleadings, Vol.I, 34-35, 38 [FRG Memorial], 173, 187, 270-279 [Denmark's Counter-Memorial], 327, 340 [NL Counter-Memorial], 406-407 [FRG Reply], 461 [Common Rejoinder of Denmark/NL], Vol.II, 20 [Agent Jaenicke, 23 Oct 1968], 90 [Counsel Sir Humphrey Waldock, 28 Oct], 264 [Reply by Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 117; *Gulf of Maine* Judgment, ICJ Rep. 1984, 319, para.172; Pleadings, Vol.III, 201 [Canada's Counter-Memorial], Vol.VII, 258-259 [Counsel Colson, 11 May 1984]; *Libya/Malta* Pleadings, Vol.IV, 180-181 [Counsel Bowett, 14 Dec 1984]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 543-553, 615, para.430; *Gabcikovo-Nagymaros Project* Judgment, President S.M. Schwebel, ICJ Rep. 1997, 18, para.16, Separate O. Bedjaoui, 126; Oral Hearings, CR 97/2 [trans.], 36 [Counsel Kiss, 3 March 1997], CR 97/5 [trans.], 5 [6 March 1997]; *Botswana/Namibia Kasikili/Sedudu* Judgment, ICJ Rep. 1999, 1045, President S.M. Schwebel concurring, Declarations Ranjeva, 1110, Koroma, 1111, Higgins, 1113, Separate Os Oda, 1116, Kooymans, 1144, Dissent Vice-President Weeramantry, 1153, Dissents Fleischhauer, 1196, Parra-Aranguren, 1208, Rezek, 1233 <<http://www.icj-cij.org>>; Questions of President Schwebel and Judge Fleischhauer, in Oral

Hearings, CR 99/9, 55-56 [25 Feb 1999], as relied upon in Dissent of Vice-President Weeramantry, paras 56-57; *Cameroon v. Nigeria* case [*supra*]; *Nicaragua v. Honduras Maritime Delimitation* case [*supra*].

On France/Switzerland Agreement on the Delimitation of the Lake of Léman of 25 February 1953 [*North Sea Pleadings*, Vol.I, 270], see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 127, 146.

1798 *UK/USA St. Croix River Award* [*infra*]; 1814 *UK/USA St. Lawrence River Award* [*infra*]; 1831 *UK/USA Northeastern Boundary Award* [*infra*]; 1892 *Iowa v. Illinois Judgment* [*infra*]; 1906 *Honduras/Nicaragua Award* [*infra*]; 1911 *Mexico/USA Chamizal Award* [*infra*]; 1914 *Netherlands/Portugal Island of Timor Award* [Regime of Islands, Sovereignty Over Island Territory *infra*]; 1919 *Minnesota v. Wisconsin Judgment* [*infra*]; 1934 *New Jersey v. Delaware and Wisconsin v. Michigan Judgments* [*infra*]; 1966 *Argentina/Chile Frontier (Rio Palena) Award* [*infra*]; 1985 *Guinea/Guinea-Bissau Award*, paras 16-17, 19, 22, 32, 62, 72-74, 78, 106, 129 [*supra*]; 1994/1995 *Argentina/Chile Laguna del Desierto Awards* [*infra*].

See also Internal Waters, Territorial Sea and Baselines – Mouth of Rivers *supra*; Regime of Islands – Islands in the Rivers *infra*.

Sector Principle/Arctic and Antarctic

Corfu Channel (Merits) Individual O. Alvarez, ICJ Rep. 1949, 43; *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 116; Pleadings, Vol.I, 80-87 [FRG Memorial], 214-217 [Denmark's Counter-Memorial], 368-373 [NL Counter-Memorial], 425-433 [FRG Reply], 471-472 [Common Rejoinder of Denmark/NL]; *Gulf of Maine Pleadings*, Vol.III, 63-64 [Canada's Counter-Memorial], Vol.V, 62 [Canada's Reply], Vol.VI, 384 [Counsel Feldman, 16 April 1984].

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On 1798 *UK/USA St. Croix River Award* [No.1/Stuyt], see *Gulf of Maine Pleadings*, Vol.I, 182 [Canada's Memorial], Vol.V, 52 n.58, 99 n.79 [Canada's Reply], Vol.VI, 15 [Counsel MacGuigan, 2 April 1984], 60 [Deputy-Agent Hankey, 3 April 1984]; *Denmark v. Norway Separate Os Shahabuddeen*, ICJ Rep. 1993, 194-195, Weeramantry, 248.

On 1814 *UK/USA St. Lawrence River Award* [No.13/Stuyt], see *Honduras v. Nicaragua* Dissent Urrutia, ICJ Rep. 1960, 223, 226.

On 1831 *UK/USA Northeastern Boundary Award* of King William I [No.27/Stuyt], see *Taba* Dissent Lapidoth, para.4 [27 ILM 1497 (1988)]; *Arbitral Award* Dissent Weeramantry, ICJ Rep. 1991, 153.

On 1872 *UK/USA San Juan Water Boundary Award*, see Straits Used for International Navigation *supra*.

On 1891 *Colombia/Venezuela Boundary Award* and 1918/1922 Award [RIAA I, 227, 292; 27 RGDIP 181 (1920); 28 RGDIP 107 (1921); 16 AJIL 428 (1922); Nos 121 and 320/Stuyt], see *Honduras v. Nicaragua* Dissent Urrutia, ICJ Rep. 1960, 223, 225-227, 229, 230-231, 233; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/5 [trans.], 49 [Counsel de Arechaga, 19 April 1991], CR 91/35, 43-44 [Counsel Highet, 30 May], CR 91/37, 30 [31 May 1991].

On 1892 *Iowa v. Illinois* Judgment [147 US 13], see *Botswana/Namibia* Oral Hearings, CR 99/1, 57, 59, 64 [Counsel Delbruck, 15 Feb 1999].

On 1899 *UK(Guyana)/Venezuela Boundary Award* [No.207/Stuyt; 43 AJIL 523-530 (1949); 43 AJIL 523-530 (1949); 44 AJIL 683-693, 720-727 (1950); *CARICOM Press Releases* Nos 109/1999, 91/2000, 98/2001], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 393-394, 463-464, 491 [Norway's Counter-Memorial], No.63, 840 [Denmark's Reply]. Since 1951, the Award has been considered by Venezuela a nullity. Cf. *Arbitral Award* Joint Dissent Aguilar Mawdsley and Ranjeva, ICJ Rep. 1991, 120-129; *Botswana/Namibia* Oral Hearings, CR 99/5 [trans.], 6 n.6, 16 [Counsel Cot, 18 Feb 1999].

On 1902 *Argentina/Chile Southern Andes Boundary Award* of King Edward VII [No.198/Stuyt], see *Antarctica* Pleadings, 68, 69 [UK Application]; *Arbitral Award* Dissent Weeramantry, ICJ Rep. 1991, 168; Oral Hearings, CR 91/3, 67 [Counsel Highet, 4 April 1991]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/12, 56 [Counsel Reisman, 9 June 2000].

See also 1994/5 *Argentina/Chile Laguna del Desierto Awards* *infra*.

On 1903 *UK/USA Alaska Boundary Award* [RIAA XV, 481; No.251/Stuyt], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 475, 492 [Norway's Counter-Memorial]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 410, 431-432, 554 [Norway's Counter-Memorial], Vol.II, 451, 477, 478-479, 538-539, 617 [UK Reply]; Vol.III, 372 [Norway's Rejoinder]; *Minquiers and Ecrehos* Pleadings, Vol.II, 268 [Agent Gros, 30 Sep 1953]; *Gulf of Maine* Pleadings, Vol.IV, 110 [US Counter-Memorial], Vol.V, 510, 518 [US Reply], Vol.VI, 20 [Agent Legault, 2 April 1984], 376 [Counsel Rashkow, 16 April 1984]; *Libya/Chad* Separate O. Ajibola, ICJ Rep. 1994, 81; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press).

On 1904 *Brazil/UK Guiana Boundary Award* of King Victor Emmanuel III [RIAA XI, 21; No.240/Stuyt], see *Eastern Greenland* Pleadings, PCIJ Series C, No. 62, 394-395, 427 [Norway's Counter-Memorial], No.63, 777, 818 [Denmark's Reply]; *Minquiers and Ecrehos* Pleadings, Vol.II, 270 [Agent Gros, 30 Sep 1953]; *Gulf of Maine* Pleadings, Vol.III, 200 [Canada's Counter-Memorial]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/12, 56, 60 [Counsel Reisman, 9 June 2000].

On 1906 *Honduras/Nicaragua Boundary Question* Award of Alphonso XIII, King of Spain [RIAA XI, 111; No.180/Stuyt], see *Honduras v. Nicaragua Arbitral Award Made by the King of Spain on 23 December 1906* Judgment, ICJ Rep. 1960, 192, Declaration Moreno Quintana, 217, Separate O. Sir Percy Spender, 219, Dissent Urrutia, 221 – the Judgment found the Award valid and binding and was implemented by the 1961 Decision of the Chairman of the OAS Inter-American Peace Commission [30 ILR 76]; *Aegean Sea* Pleadings, 347 [Counsel De Visscher, 10 Oct 1978]; *Tunisia v. Libya* Pleadings, 231 [Counsel Queneudec, 18 June 1985]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 310; Pleadings, Vol.I, 167 [Canada's Memorial], Vol.IV, 107-109 [US Counter-Memorial], Vol.V, 82 n.12, 86 n.27, 90 n.43 [Canada's Reply], Vol.VI, 374 [Counsel Rashkow, 16 April 1984]; *Great Belt* Pleadings, 369-370, 373-375, 385 [Finland's Memorial]; *Arbitral Award* Judgment, ICJ Rep. 1991, 62, Declaration Mbaye, 80 n.1, Separate O. Shahabuddeen, 111, Dissent Weeramantry, 152, 165; Oral Hearings, CR 91/3, 49-56, 72-74 [Counsel Highet, 4 April 1991], CR 91/5, 13 [Counsel Bowett, 8 April], CR 91/49, 15 [Agent Arguello, 13 June 1991]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 544-546, 561, Separate O. Torres Bernardez, 637-638, 670, 676, 682; Oral Hearings, C 4/CR 91/5 [trans.], 50 [Counsel de Arechaga, 19 April 1991], CR 91/28 [trans.], 8-9, 16 [Counsel Bardonnnet, 22 May], CR 91/33, 36 [Counsel Lima, 29 May], CR 91/43, 49 [Agent Arguello, 7 June 1991]; *Denmark v. Norway* Norway's Counter-Memorial, paras 395, 399, 405; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.111; Oral Hearings, CR 2000/12, 46-47, 50, 52 [Counsel Reisman, 9 June 2000], CR 2000/19, 9 [Counsel David, 22 June], CR 2000/21, 35 [Reisman, 27 June 2000]; *Nicaragua v. Honduras Maritime Delimitation* – see *supra*.

On 1909 *Bolivia/Peru Boundary Question* Award of President J. Figueroa Alcorta [RIAA XI, 141; 3 AJIL 949, 1029 (1909); No.249/Stuyt], see *Honduras v. Nicaragua* Dissent Urrutia, ICJ Rep. 1960, 225, 229; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/5 [trans.], 50 [Counsel de Arechaga, 19 April 1991], CR 91/37, 30 [Counsel Highet, 31 May 1991]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/12, 47, 50, 52 [Counsel Reisman, 9 June 2000], CR 2000/21, 36 [27 June 2000].

On 1909 *Norway v. Sweden Grisbadarna Maritime Frontier* Award [*supra*], see *Eastern Greenland* Pleadings, PCIJ Series C, No.63, 817, 818 [Denmark's Reply], 1314-1315 [Norway's Rejoinder], No.67, 3553 [Counsel Gidel, 2 February 1933]; *Anglo-Norwegian Fisheries* Pleadings, Vol.I, 570-571 [Norway's Counter-Memorial], Vol.II, 655 [UK Reply]; *Minquiers and Ecrehos* Pleadings, Vol.II 177-178 [Counsel Harrison, 24 Sep 1953], 206, 266, 274 [Agent Gros, 28 and 30 Sep 1953]; *North Sea* Separate O. Jessup, ICJ Rep. 1969, 79-80, 81, Separate O. Ammoun, 113 n.3, Dissent Koretsky 160; *North Sea*

Pleadings, Vol.I, 495 [Common Rejoinder of Denmark/NL]; 1981 *Dubai/Sharjah* Award [91 ILR 622]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 309; *Gulf of Maine* Pleadings, Vol.II, 64-70, 76, 93, 96-97, 99, 101, 108-109 [US Memorial], Vol.III, 16-18, 142, 190 n.25, 202, 219-220, 236-237, 244 [Canada's Counter-Memorial], Vol.IV, 69, 76-77, 83 [US Counter-Memorial], Vol.V, 32, 49 n.48, 50 n.51 [Canada's Reply], 447, 477-478, 481 [US Reply], Vol.VI 46 [Agent Legault, 3 April 1984], 63-64, 69 [Deputy Agent Hankey, 3 April 1984], 88, 91-92 [Counsel Binnie, 4 April], 137 [Counsel Bowett, 5 April], 263, 264, 275, 279-280 [Counsel Stevenson, 12 April], 338-339 [Counsel Lancaster, 16 April], 352 [Special Counsel Rashkow], 380 [Counsel Feldman], Vol.VII, 87-88, 91 [Counsel Binnie, 4 May], 101-102 [Bowett, 5 May], 114 [Counsel Fortier], 174 [Feldman, 9 May], 218 [Deputy Agent Colson, 10 May], 271 [Agent Robinson, 11 May 1984], 332, Vol.VIII, 30, [Fig.20], 74 [Fig.46]; *Great Belt* Pleadings, 373 [Finland's Memorial]; *Libya/Chad Territorial Dispute* Separate O. Ajibola, ICJ Rep. 1994, 81; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, ICJ Rep. 2001 (in press), para.94 n.27, Dissent Torres Bernardez, paras 16, 429; Oral Hearings, CR 2000/11, 20 [Counsel Lauterpacht, 8 June 2000], CR 2000/12, 61 [Counsel Reisman, 9 June], CR 2000/15, 13 [14 June 2000].

On 1911 *Mexico/USA Chamizal* Award [RIAA XI, 316; 4 AJIL 925 (1910); 5 AJIL 709, 782 and Supp. 117 (1911); 67 AJIL 423 (1973); No.300/Stuyt], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 477 [Norway's Counter-Memorial], No.63, 818, 820 [Denmark's Reply]; *Minquiers and Ecrehos* Individual O. Levi Carneiro, ICJ Rep. 1953, 107-108; Pleadings, Vol.II, 267-268, 269 [Agent Gros, 30 Sep 1953]; *Honduras v. Nicaragua* Dissent Urrutia, ICJ Rep. 1960, 225; *Taba* Dissent Lapidoth, para.4 [27 ILM 1497 (1988)]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/27 [trans.], 20, 22 [Counsel Bardonnnet, 21 May 1991], CR 91/28 [trans.], 11-12 [22 May 1991]; *Botswana/Namibia* Oral Hearings, CR 99/1, 67 [Counsel Delbruck, 15 Feb 1999], CR 99/5 [trans.], 24 [Counsel Cot, 18 Feb 1999]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press).

On 1911 *Germany/UK Walfish Bay Boundary* Award [3 AJIL Supp. 306 (1909); No.162/Stuyt], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 437-438, 463, 464 [Norway's Counter-Memorial], No.63, 733, 818 [Denmark's Reply]; *Gulf of Maine* Pleadings, Vol.II, 98 [US Memorial], Vol.III, 201 [Canada's Counter-Memorial]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press).

On 1914 *Costa Rica/Panama Boundary* Award [6 AJIL Supp.1 (1912); 8 AJIL 913 (1914); No.298/Stuyt], see *Guinea-Bissau v. Senegal* Oral Hearings, CR 91/3, 70 [4 April 1991, Counsel Highet]; *Gulf of Fonseca* Oral Hearings, C 4/CR 91/37, 30 [Counsel Highet, 31 May 1991].

On 1916 *Costa Rica v. Nicaragua* Judgment, see *Inter-Oceanic Canals supra*.

On 1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment of the Central American Court of Justice [11 AJIL 674 (1917); 17 AJIL 309-313 (1923)], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 447, 556 [Norway's Counter-Memorial], Vol.II, 619-620, 622, 644 [UK Reply], Vol.III, 447, 456, 644 [Norway's Rejoinder]; *Minquiers and Ecrehos* Pleadings, Vol.II, 255-256 [Agent Gros, 30 Sep 1953]; 1989 *Guinea-Bissau/Senegal Award* [94 RGDIP 254 (1990)], para.64; *Gulf of Fonseca (Intervention)* Judgment, ICJ Reports 1990, 102-106, 120-122, (*Merits*) Judgment, ICJ Rep. 1992, 364, 372, 381, 557, 569, 589-608, Separate O. Bernardez, 664, 708, 712-714, 725-726, Dissent Oda, 734-735, 747-758; Oral Hearings, C 4/CR 90/1, 21 [Agent Arguello Gomez, 5 June 1990], 44 [Counsel Brownlie], CR 90/3, 9, 15 [Agent Martinez Moreno, 6 June], 44 [Counsel Weil], CR 90/4, 32-34 [Counsel Bowett, 7 June], CR 90/5, 17 [Arguello, 8 June 1990], 30-31 [Brownlie], C 4/CR 91/4 [trans.], 64 [Weil, 18 April 1991], CR 91/34, 54 [Counsel Highet, 29 May], CR 91/35, 26 [30 May], CR 91/37, 15-16 [Counsel Lima, 31 May 1991], CR 91/40, 11-32 [Counsel Lauterpacht, 5 June], CR 91/42, 10-11, 16-18, 41 [6 June], CR 91/43, 22-23, 32-50 [Arguello, 7 June], 54 [Brownlie], CR 91/44, 15-16 [Bowett, 10 June], 28-35 [Lauterpacht], CR 91/45, 21 [Bowett], CR 91/46, 22-23, 44, 51-52 [Lauterpacht, 11 June], CR 91/47, 23-25 [Bowett, 12 June], CR 91/48, 31-39 [Lauterpacht, 13 June], CR 91/49, 29 [Arguello, 13 June], CR 91/50, 21 [Martinez Moreno, 14 June 1991]; *Nauru v. Australia (Preliminary Objections)* Dissent Schwebel, ICJ Reports 1992, 336-337; *Portugal v. Australia East Timor* Separate O. Shahabuddeen, ICJ Rep. 1995, 124-125, 126, Dissents Weeramantry, 160 n.2, 169 n.1, and Skubiszewski, 253-254; Oral Hearings, CR 95/6 [trans.], 12 [Counsel Dupuy, 3 Feb 1995], 30-31 [Co-Agent Teles], CR 95/15, 22 [Counsel Pellet, 16 Feb 1995]; *Southern Bluefin Tuna (Jurisdiction)* Oral Hearings, Vol.II [Counsel Serdy, 8 May 2000] <<http://www.worldbank.org/icsid>>.

On 1919 *Minnesota v. Wisconsin* Judgment [252 US 273], see *Botswana/Namibia* Oral Hearings, CR 99/1, 62 [Counsel Delbruck, 15 Feb 1999].

On 1925 *Chile/Peru Tacna-Arica Award* [RIAA II, 921; 19 AJIL 303, 633 (1925); 20 AJIL 605 (1926); 21 AJIL Supp. 39 (1927); 23 AJIL Supp. 183 (1929); No.349/Stuyt], see *Aegean Sea* Pleadings, 122-123 [Counsel Pinto, 26 Aug 1976], 273 [Greece's Memorial (Jurisdiction)]; *Gabcikovo* Dissent Skubiszewski, ICJ Rep. 1997, 235; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.110 n.95, ICJ Rep. 1999, 1193 <<http://www.icj-cij.org>>; *Ireland v. UK Mox Plant (Provisional Measures)* Oral Hearings, ITLOS/PV.01/07, 18 [Counsel Lowe, 19 Nov 2001] <<http://www.itlos.org>>.

On 1933 *Guatemala/Honduras Boundary Award* [RIAA III, 2042; 27 AJIL 403-427 (1933); No.393/Sutyty], see *Honduras v. Nicaragua* Dissent Urrutia, ICJ Rep. 1960, 229, 231-232; *Gulf of Maine* Pleadings, Vol.I. 169 [Canada's

Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 380, 381, 397, 401-402, 408, Separate Os Valticos, 622 n.1, Bernardez, 643, 672, 713; Oral Hearings C 4/CR 91/5 [trans.], 38-39, 49 [Counsel de Arechaga, 19 April 1991], CR 91/37, 30 [Counsel Highet, 31 May 1991]; *Libya/Chad* Separate O. Ajibola, ICJ Rep. 1994, 81; *Botswana/Namibia* Judgment, ICJ Rep. 1999, 1066, para.33 <<http://www.icj-cij.org>>; Oral Hearings, CR 99/10, 54 [Counsel Faundez, 1 March 1999]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press).

On 1934 *New Jersey v. Delaware* Judgment (Delaware River and Bay) of Justice Cardozo [291 US 361; 29 AJIL 331 (1935)], see *Botswana/Namibia* Oral Hearings, CR 99/1, 46 [Counsel Chayes, 15 Feb 1999], 64 [Counsel Delbruck], CR 99/5 [trans.], 33 [Counsel Cot, 18 Feb 1999].

On 1934 *Wisconsin v. Michigan* Judgment [295 US 455], see *Botswana/Namibia* Oral Hearings, CR 99/5 [trans.], 33, 35-36 [Counsel Cot, 18 Feb 1999].

On 1944 *Spath v. Larsen* Judgment [20 Wash. 2d 500, 148 P.2d 834], see *Gulf of Maine* Pleadings, Vol.II 94 n.8 [US Memorial].

On 1950 *Petroleum Development (Qatar) Ltd. v. Ruler of Qatar* Award of Lord Radcliffe [18 ILR 161], see *Aegean Sea* Pleadings, 259 n.1 [Greece's Memorial (Jurisd.)]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/21, 36 [Counsel Reisman, 27 June 2000].

On 1951 *Petroleum Development (Trucial Coast) Ltd. v. Sheikh of Abu Dhabi* Award [*supra*], see *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 32; Pleadings, 258-259 [Greece's Memorial (Jurisd.)]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 173; Pleadings, Vol.II, 209 n.1 [Libya's Counter-Memorial]; *Libya/Malta* Pleadings, Vol.I 448 [Malta's Memorial].

On 1949 Proclamation of Abu-Dhabi, see *North Sea* Dissent Koretsky, ICJ Rep. 1969, 167; Pleadings, Vol.I, 31 [FRG Memorial].

On 1951 *Driesbach v. Lynch* Judgment [71 Idaho 501, 234 P.2d 446], see *Gulf of Maine* Pleadings, Vol.II, 94 n.9 [US Memorial].

On 1966 *Argentina/Chile Frontier (Rio Palena or Rio Encuentro)* Award [38 ILR 16; RIAA XVI, 111; *Tunisia/Libya* Pleadings Pleadings, Vol.V, 441; No.432/Stuyt], see *Tunisia/Libya* Pleadings, Vol.V, 357 [Counsel Vallat, 19 Oct 1981]; *Gulf of Maine* Pleadings, Vol.I, 169, 170 [Canada's Memorial], Vol.V, 86 n.27 [Canada's Reply]; *Guinea Bissau v. Senegal Arbitral Award* Oral Hearings, CR 91/3, 47, 67-69 [Counsel Highet, 4 April 1991]; 1998 *Eritrea Yemen Territorial Sovereignty (Phase I)* Award [*infra*], para.95; *Botswana/Namibia Kasikili/Sedudu Island* Judgment, ICJ Rep. 1999, 1064, para.30, Separate O. Kooymans, 1146-1147, para.15; Oral Hearings, CR 99/1, 41 [Counsel Chayes, 15 Feb 1999], 57-58 [Counsel Delbruck], CR 99/2, 57, 60 [Chayes, 16 Feb], CR

99/8, 41-42 [Counsel Lady Fox, 24 Feb], CR 99/11, 27 [Chayes, 2 March 1999] <<http://www.icj-cij.org>>.

On 1977 *Argentina/Chile Beagle Channel Award* [*supra*], see *Gulf of Fonseca* Oral Hearings, C 4/CR 91/33, 67 [Counsel Highet, 29 May 1991]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 259 n.2; *Botswana/Namibia* Dissent Vice-President Weeramantry, paras 4-5, ICJ Rep. 1999, 1155; Oral Hearings, CR 99/1, 39, 41 [Counsel Chayes, 15 Feb 1999], CR 99/4, 21 [Counsel Faundez, 17 Feb 1999], 59-61, 63-64, 67-68 [Agent Kawana, 17 Feb], CR 99/10, 54 [Faundez, 1 March 1999]; *Qatar v. Bahrain* Oral Hearings, CR 94/5 [trans.], 55 [Counsel Weil, 7 March 1994], CR 2000/7, 24 [Counsel Bundy, 31 May 2000], 2000/10, 11-12 [Counsel Queneudec, 6 June], CR 2000/14, 17 [Lauterpacht, 13 June 2000].

On 1977 and 1978 *Anglo/French Continental Shelf Delimitation* Decisions [*supra*], see *Aegean Sea* Pleadings, 337-338, 341 [Counsel O'Connell, 10 Oct 1978], 421-422 [Counsel Weil, 13 Oct 1978]; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 38, 57, 79, Separate O. Jiménez de Aréchaga, 104-107, 115, 118, 132-134, 137, Dissent Gros 150, 152, Dissent Oda, 258-260, 262, Dissent Evensen, 278, 291-292, 296-298, 312, 314; *Tunisia/Libya* Pleadings, Vol.I, 50, 162-163, 168-169, 173, 181, 486, 488-489, 492-493, 506-507, 509, 510-511, 513 [Tunisia's Memorial], Vol.II, 61, 64 [Tunisia's Counter-Memorial], 210 n.5, 215, 225, 243, 265-292, 310, 318 n.2, 325-326, 339-341 [Libya's Counter-Memorial], Vol.III, 298, 315, 316 [Counsel Lauterpacht, 19 March 1981], 410-411 [Counsel Jennings, 21 March], 434 [Agent Mizzi, 23 March 1981], 448 [Lauterpacht]; Vol.IV, 145 n.1, 151 [Libya's Reply], 403, 406, 411-415, 418 [Jennings, 16 Sep 1981], 428, 440-441, 443, 452-453 [Counsel Abi-Saab, 17 Sep], 486 [Counsel Dupuy], 494, 601-602, 615, Vol.V, 55, 62-67 [Counsel Vallat, 30 Sep and 1 Oct], 204, 207-209, 214-215, 227 [Counsel Highet, 7 Oct], 263, 265, 277 [Jennings, 13 Oct], 286 [Dupuy, 14 Oct], 356, 361 [Vallat, 19 Oct 1981], 428; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 42, 44, Separate O. Vice-President Sette-Camara, 60, 64, 66, 67, 72-73, 74, Joint Separate O., 81, 86, 89, Separate O. Valticos, 106, 107, 110, Dissent Mosler, 114, Dissent Oda, 139, 143, 144-148, 160, 163, 165, 168, 169, Dissent Schwebel, 185; *Libya/Malta* Pleadings: Vol.I, 96, 100, 109, 112-113, 116-117, 121-124, 128, 129-131, 132-134, 139 n.3, 140-141, 143 n.1, 145, 154, 156, 160, 172 [Libya's Memorial], 416, 420, 433-436, 438, 441, 445, 453, 457, 477 n.5, 478-479, 486-487, 492 n.2 [Malta's Memorial]; Vol.II, 26 n.4, 32, 34 n.2, 39 n.1, 44, 60, 73, 88-94, 116-118, 125, 145, 146-147, 149, 153, 154 n.8, 156-157, 158-159 [Libya's Counter-Memorial], 252, 256, 281, 290 n.2, 292-293, 295, 299, 301-302, 303, 305, 309, 311, 313, 315, 316, 329-330, 332, 334-335, 337 n.1, 339-341, 353-355, 358 n.2, 360 n.4, 365 n.1, 367, 369, 370 n.1, 371 n.1 [Malta's Counter-Memorial], 443, 446 [Malta's Observations (Intervention)], 498 [Counsel Arangio-Ruiz, 25 January 1984], 557

[Counsel Virally], 564-565 [Counsel Colliard, 27 Jan], 608 [Counsel Grisel, 27 Jan 1984], Vol.III, 8 n.3, 9, 37, 40 n.3, 49, 54, 89, 92 n.3, 101 n.2 [Libya's Reply], 156-157, 162, 166, 177, 185, 187 n.3, 188-189, 191, 195, 198, 204-210, 217 n.1, 219-221, 222 n.1, 237 n.1 [Malta's Reply], 296-297, 305 [Agent Mizzi, 26 Nov 1984], 309, 317 [Mizzi, 27 Nov], 325, 329 [Counsel Lauterpacht], 362, 364 [Counsel Weil, 28 Nov], 395, 398, 405-407, 425, 428 [Weil, 29 and 30 Nov], 442, 447, 450-452, 456-460, 462, 465, 472 [Counsel Brownlie, 3 Dec], Vol.IV, 34, 37, 38, 39 [Counsel Briggs, 7 Dec 1984], 45, 57, 65 [Counsel Jaenicke, 7 and 10 Dec], 90, 92-94, 97 [Counsel Colliard, 11 Dec], 138-139, 140 [Counsel Lucchini, 12 Dec], 158 159, 163, 168 [Counsel Bowett, 13 Dec], 184-185, 187-188 [Jaenicke, 14 Dec 1984], 289, 297-298 [Brownlie, 8 Feb 1985], 325, 326 [Lauterpacht, 11 Feb], 354, 372, 388-389 [Weil, 12 and 13 Feb], 404 [Agent Mizzi, 13 Feb], 436 [Jaenicke, 21 Feb 1985], 504.

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June], CR 91/48, 28-29 [Lauterpacht, 13 June 1991], CR 91/49, 54-56 [Brownlie]; *Canada/France* Award, paras 24, 41-42, 51-52, 90 [31 ILM 1160, 1163-1165, 1175 (1992)], Dissent Gotlieb, paras 5, 56-57, 61, 65 [*id.* 1181, 1193-1195, 1196], Dissent Weil, paras 21, 28-29, 37 [*id.* 1204, 1208, 1213]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 58, 60-63, 67, Separate Os Shahabuddeen, 131, 132 n.1, 133, 134, 136, 142, 145-146, 156, 157, 165-166, 169, 171 n.1, 180-182, 189, Weeramantry, 230 n.2, 248, 259 n.2, 260, 263, 265-267, 268, 271, 273, Ajibola, 285, 302, 303, Dissent Fischer, 306, 307, 308; Denmark's Memorial, paras 215, 239, 244, 249, 252, 255, 278-282, 323-324, Norway's Counter-Memorial, paras 420, 425, 429, 433, 448-449, 452, 454-456, 472-473, 488, 501, 515-522, 567-568, 595, Denmark's Reply, para.457, Norway's Rejoinder, paras 380-383, 398-399, 410, 455-461, 500, 506-507, 521-523, 528-529, 531, 544, 573, 584, 599, 608; Oral Hearings, CR 93/1Corr., 24, 26 [Agent Lehmann, 11 Jan 1993], CR 93/2, 69 [Counsel de Arechaga, 12 Jan], CR 93/4, 12, 13 [Counsel Bowett, 14 Jan], 42, 50 [Agent Bernhard], CR 93/6, 44-45 [Agent Haug, 18 Jan], CR 93/7, 10, 13-15, 28-29, 35-36, 50, 54-56 [Counsel Brownlie, 19 Jan], CR 93/8 [trans.], 28, 46, 52, 56-57 [Counsel Weil, 20 Jan], CR 93/9 [trans.], 13, 18 [21 Jan], CR 93/9, 62 [Counsel Highet], CR 93/10, 20, 28 [Lehmann, 25 Jan], 61 [Bowett], CR 93/11 [trans.], 42 [Weil, 27 Jan 1993]; 1999 *Eritrea/Yemen (Phase II)* Award, paras 39, 165 [*supra*]; *Qatar v. Bahrain* Judgment, ICJ Rep. 2001 (in press), para.247, Joint Dissent Bedjaoui, Ranjeva, Koroma, para.173, Dissent Torres Bernardez, paras 537-541; Oral Hearings, CR 94/6, 4 [Counsel Weil, 8 March 1994], CR 2000/10, 46 [Counsel Queneudec, 6 June 2000], CR 2000/15, 30-31, 35, 42-43 [Weil, 14 June], CR 2000/16, 51-52 [Counsel Reisman, 15 June 2000].

On specifically the 1978 *Anglo/French* Decision [*supra*], see *Tunisia v. Libya (Revision and Interpretation)* Pleadings, 70 n.2, 75 n.4 [Libya's Observations], 143 [Counsel Virally, 13 June 1985], 187 [Counsel Dupuy, 14 June 1985]; *Libya/Malta (Intervention)* Separate O. Jiménez de Aréchaga, ICJ Rep. 1984, 69-70; *Denmark v. Norway* Separate O. Ajibola, ICJ Rep. 1993, 285; 1994 *Laguna del Desierto* Award, paras 70, 75 [113 ILR 44-45].

The 1978 Decision resolved the issues of the meaning and scope of the 1977 Decision [*supra*] which were referred to the *Anglo/French* Court of Arbitration by the United Kingdom. The Court, *inter alia*, rectified the *dispositif* of its 1977 Decision concerning the basepoints of Guernsey by using all these basepoints.

On 1981 *Dubai/Sharjah Boundary* Award [*supra*], see *Gulf of Maine* Pleadings, Vol.IV, 446 [US Counter-Memorial], Vol.V, 158 n.3 [Canada's Reply]; *Denmark v. Norway*, Denmark's Reply, para.276, Annex 78, Norway's Rejoinder, paras 409, 448; *Botswana/Namibia* Oral Hearings, CR 99/5 [trans.], 20 [Counsel Cot, 18 Feb 1999]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 111, 113, 117, Joint Dissent Bedjaoui, Ranjeva, Koroma,

para.36, Separate Os Kooymans, paras 12-13, 15 n.3, 28, 48-49, 61, Al-Khasawneh, paras 6, 9, Dissent Torres Bernardez, paras 209, 326, 434, 445, Separate O. Fortier, para.26; Oral Hearings, CR 2000/5 [trans.], 24 [Counsel Salmon, 29 May 2000], CR 2000/7, 46 [Counsel Bundy, 31 May], CR 2000/8, 16 [Counsel Sinclair, 5 June], CR 2000/9 [trans.], 14-15 [Counsel David], CR 2000/17, 11 [Salmon, 20 June], CR 2000/18, 7 [Bundy, 21 June], 28-29 [David], CR 2000/19, 9-10, 12-13 [Sinclair, 22 June], CR 2000/21, 37 [Counsel Reisman, 27 June 2000].

On 1949 Proclamations of Dubai and Sharjah, see *North Sea Pleadings*, Vol.I, 31 [FRG Memorial].

On 1981 *Iceland/Norway (Jan Mayen) Continental Shelf Conciliation* [*supra*], see *Tunisia/Libya Pleadings*, Vol.V, 246 [Question IV Judge Oda & Question II Judge Schwebel, 9 Oct 1981], 503-504 [Libya's Replies, 21 Oct 1981]; *Libya/Malta Pleadings*, Vol.I, 440 n.1 [Malta's Memorial], Vol.II, 110, 135 (I/N Agr) [Libya's Counter-Memorial], Vol.III, 38 (I/N Agr), 40 n.3 (I/N Agr) [Libya's Reply], 328-329 [Counsel Lauterpacht, 27 Nov 1984], Vol.IV, 105, 135 [Counsel Colliard, 11 Dec 1984], 320 [Counsel Lauterpacht, 11 Feb 1985]; *Gulf of Maine Pleadings*, Vol.VI, 168-169 [Counsel Weil, 6 April 1984]; *Gulf of Fonseca (Intervention) Judgment*, ICJ Rep. 1990, 108, Separate O. Oda, 139; Oral Hearings, C 4/CR 90/4, 37 [Counsel Bowett, 7 June 1990]; *Denmark v. Norway Judgment*, ICJ Rep. 1993, 75-76, Dissent Fischer, 312; Denmark's Memorial, paras 78, 289, Denmark's Reply, paras 212, 314, 328; Oral Hearings, CR 93/3, 39, 46-48 [Agent Lehmann, 13 Jan 1993], CR 93/5, 48 [Agent Tresselt, 15 Jan], CR 93/6, 66 [Agent Haug, 18 Jan], CR 93/10, 22-24 [Lehmann, 25 Jan], CR 93/11, 16 [Tresselt, 27 Jan 1993].

On 1985 *Guinea/Guinea-Bissau Delimitation of the Maritime Boundary Award* [*supra*], see *Libya/Malta (Merits) Separate O. Vice-President Sette-Camara*, ICJ Rep. 1985, 73-74, Joint Separate O., 88, 90, Dissent Mosler 114, 115; 1989 *Guinea-Bissau/Senegal Award* [94 RGDIP 256 (1990)], para.66; *Arbitral Award Judgment*, ICJ Rep. 1991, 70-71; Oral Hearings, CR 91/3, 59, 69, 76 [Counsel Highet, 4 April 1991]; *Gulf of Fonseca Oral Hearings*, C 4/CR 91/45, 39 [Counsel Bowett, 10 June 1991], CR 91/46, 32-33 [Counsel Lauterpacht, 11 June 1991]; *Canada/France Dissent Weil*, para.23 n.18, paras 30, 32, 35, 44, 46 [31 ILM 1206, 1209-1210, 1212, 1216 (1992)]; *Denmark v. Norway Separate Os Weeramantry*, ICJ Rep. 1993, 230 n.2, 257, 266, Ajibola, 298, Dissent Fischer, 307, 308; Denmark's Memorial, paras 268, 339, Norway's Counter-Memorial, paras 415, 425, Denmark's Reply, para.457, Norway's Rejoinder, paras 518-519, 536, 545; Oral Hearings, CR 93/4, 27 [Counsel Bowett, 14 Jan 1993], CR 93/7, 11, 55 [Counsel Brownlie, 19 Jan], CR 93/8 [trans.], 16 [Counsel Weil, 20 Jan], CR 93/9 [trans.], 19, 25 [21 Jan 1993]; *M/V Saiga Separate O. Laing* [38 ILM 1323 (1999)], para.1 n.1, paras 36, 48;

Memorial (Merits) of St.Vincent, para.16, Counter-Memorial (Merits) of Guinea, para.121 <<http://www.un.org/Depts/los/>>; 1999 *Eritrea/Yemen (Phase II)* Award [*infra*], para.157; *Qatar v. Bahrain (Merits)* Hearings, CR 2000/10, 24 [Counsel Queneudec, 6 June 2000], CR 2000/16, 17 [Counsel Weil, 15 June], CR 2000/19, 17 [Queneudec, 22 June 2000].

On 1988 *Egypt/Israel Taba Beachfront Boundary* Award [*supra*], see *Arbitral Award Dissent Aguilar and Ranjeva*, ICJ Rep. 1991, 124-125; *Gulf of Fonseca* Oral Pleadings, C 4/CR 91/40, 37 [Counsel Lauterpacht, 5 June 1991]; *Botswana/Namibia* Oral Hearings, CR 99/1, 39 [Counsel Chayes, 15 Feb 1999], CR 99/5 [trans.], 16 [Counsel Cot, 18 Feb 1999]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/5, 24 [Agent Al-Muslemani, 29 May 2000], 29 [Counsel Salmon], CR 2000/11, 42 [Counsel Lauterpacht, 8 June 2000].

On 1989 *Guinea-Bissau/Senegal Maritime Boundary* Award [*supra*], see *Arbitral Award (Provisional Measures) Order and Arbitral Award Judgment*, ICJ Rep. 1990, 64, and 1991, 53; and *Guinea-Bissau v. Senegal Maritime Delimitation (Discontinuance) Order*, ICJ Rep. 1995, 423; *Denmark v. Norway* Separate O. Shahabuddeen, ICJ Rep. 1993, 201; *East Timor* Oral Hearings, CR 95/3 [trans.], 73-74 [Co-Agent Teles, 31 Jan. 1995], CR 95/4 [trans.], 68 [1 Feb], CR 95/8, 81 [Co-Agent Burmester, 7 Feb], CR 95/10, 13-15 [9 Feb], CR 95/11, 22-23, 26 [Counsel Pellet, 10 Feb 1995]; *Cameroon v. Nigeria* Oral Hearings, CR 98/4 [trans.], 5 [Counsel Cot, 6 March 1998]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/12, 47 [Counsel Reisman, 9 June 2000], CR 2000/15, 36 [Counsel Weil, 14 June], CR 2000/19, 9 [Counsel Sinclair, 22 June], CR 2000/21, 7 [Counsel Paulsson, 27 June 2000], 17 [Counsel Kemicha], 21 [Paulsson], 35 [Reisman].

On 1992 *Canada/France (St. Pierre & Miquelon) Delimitation of the Maritime Areas* Award [*supra*], see *North Sea Pleadings*, Vol.II, 33 [Agent Jaenicke, 24 Oct 1968]; 1977 *Anglo/French* Decision [*supra*], paras 46, 177, 200; *Aegean Sea Pleadings*, 94 [Counsel O'Connell, 26 Aug 1976], 338 [10 Oct 1978]; *Gulf of Maine Pleadings*, Vol.II, 9, 102 [US Memorial], Vol.IV, 94 [US Counter-Memorial], Vol.V, 516-517, 520, 545-547 [US Reply], Vol.VII, 220 [Counsel Colson, 10 May 1984]; *Libya/Malta Pleadings*, Vol.I, 154 [Libya's Memorial]; *Denmark v. Norway* Separate O. Shahabuddeen, 131, 132, 133, 146-147, 171 n.1, 200, Dissent Fischer, 307, 308; Oral Hearings, CR 93/1Corr., 15, 31 [Agent Lehmann, 11 Jan 1993], CR 93/3, 21 [Agent Magid, 13 Jan], CR 93/4, 28 [Counsel Bowett, 14 Jan], 44, 50 [Agent Bernhard], CR 93/5, 19 [Agent Haug, 15 Jan], CR 93/8 [trans.], 21 [Counsel Weil, 20 Jan], CR 93/9, 62 [Counsel Hight, 21 Jan], CR 93/10, 20 [Lehmann, 25 Jan], 49-50, 61 [Bowett], CR 93/11, 29 [Haug, 27 Jan 1993]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.174, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/9 [trans.], 40-41 [Counsel Queneudec, 5 June 2000], CR 2000/18, 21 [Counsel

Sinclair, 21 June 2000]; 2001 *Newfoundland and Labrador/Nova Scotia (Phase I)* Award, para.2.11 <<http://www.bissettmatheson.com/arbitration/>>.

On 1994/1995 *Argentina/Chile Laguna del Desierto* Awards [1664 UNTS 296; 113 ILR 1, 17, 194; 100 RGDIP 520 (1996)], see *Botswana/Namibia* Judgment, ICJ Rep. 1999, 1060, para.20, Declaration Higgins, para.2, 1113 <<http://www.icj-cij.org>>; Oral Hearings, CR 99/2, 60 [Counsel Chayes, 16 Feb 1999], CR 99/8, 41-42 [Counsel Lady Fox, 24 Feb], CR 99/11, 27, 47 [Chayes, 2 March 1999]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/13, 64 [Counsel Kemicha, 13 June 2000].

On 1998 *Eritrea/Yemen Territorial Sovereignty and Scope of the Dispute (Phase I)* Award [*supra*], see *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, ICJ Rep. 2001 (in press), paras 82, 94 n.27, 137, 139-140, 144, Declaration Higgins, Separate Os Kooymans, paras 9, 66, Al-Khasawneh, para.10, Dissent Torres Bernardez, paras 37, 210, 244, 366, 380, 428; Oral Hearings, CR 2000/6, 47-48 [Counsel Sinclair, 30 May 2000], CR 2000/7, 17, 24 [Counsel Bundy, 31 May], CR 2000/8, 33 [Counsel Sir Ian Sinclair, 5 June], CR 2000/9 [trans.], 45-46, 52 [Counsel Queneudec], CR 2000/11, 19, 23-25, 29-30, 38 [Counsel Sir Elihu Lauterpacht, 8 June], CR 2000/13, 42 [Counsel Volterra, 13 June], CR 2000/14, 10, 15 [Lauterpacht, 13 June], CR 2000/15, 12-14 [Counsel Reisman, 14 June], CR 2000/15, 29, 45-48, 55-56 [Counsel Weil], CR 2000/17, 30-31, 33, 36-38 [Shankardass, 20 June], 52 [Bundy], CR 2000/18, 7-8 [21 June], 19-21, 23 [Sinclair], 29 [Counsel David], CR 2000/21 [Counsel Paulsson, 27 June], CR 2000/22, 16-17 [Lauterpacht, 28 June], CR 2000/25, 10 [Reisman, 29 June 2000], 14 [Weil]; *Indonesia/Malaysia (Intervention)* Oral Hearings, CR 2001/1, 10 [Counsel Reisman, 25 June 2001] <<http://www.icj-cij.org>>.

On 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award [*supra*], see *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/6, 41 [Counsel Sinclair, 30 May 2000], CR 2000/10, 12 [Counsel Queneudec, 6 June], CR 2000/15, 19, 29, 36-38, 51, 53 [Counsel Weil, 14 June 2000] <<http://www.icj-cij.org>>.

Cf. *Gulf of Fonseca* Oral Hearings, C 4/CR 91/43, 79 [Counsel Brownlie, 7 June 1991], CR 91/44, 20 [Counsel Bowett, 10 June 1991].

**CHARTS AND LISTS OF GEOGRAPHICAL COORDINATES
DEPOSITED WITH THE UNITED NATIONS SECRETARY-GENERAL**

**1958 TSC, ARTICLE 12(2); 1958 CSC, ARTICLE 6(3)
1982 LOSC, PART II, ARTICLES 5-6 AND 16, PART IV, ARTICLE 47(8)-(9),
PART V, ARTICLES 75 AND 76(9), PART VI, ARTICLE 84, PART XI,
ARTICLE 134(3)**

North Sea Pleadings, Vol.I, 518-519 [Common Rejoinder of Denmark/NL], Vol.II, 25 [Agent Jaenicke, 23 Oct 1968], 88-89 [Sir Humphrey Waldock, 28 Oct 1968]; *Denmark v. Norway* Oral Hearings, CR 93/2, 62 [Counsel de Arechaga, 12 Jan 1993], CR 93/10, 39 [Agent Magid, 25 Jan 1993]; *Qatar v. Bahrain (Merits)* Dissent Torres Bernardez, paras 55, 514-515, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/14, 44 [Counsel Reisman, 13 June 2000].

Cf. *Botswana/Namibia* Oral Hearings, CR 99/4, 52-53, 63, 67 [Agent Kawana, 17 Feb 1999], CR 99/5, 61 [Counsel Chayes, 18 Feb 1999].

1978 *Anglo/French Continental Shelf* Decision – see Equitable Maritime Boundary Delimitation *supra*; 1998 *Eritrea/Yemen (Phase I)* Award, paras 51, 376-379 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

REGIME OF ISLANDS

**1930 HAGUE DRAFT, ANNEX II, APPENDIX A: PROPOSAL OF THE
DELEGATION OF THE USA, 250, AND APPENDIX B: COMPROMISE-
PROPOSAL OF THE FRENCH DELEGATION (ISLANDS), 251-252**

**1958 TSC, ARTICLE 10; 1958 CSC, ARTICLE 1(B)
1982 LOSC, PART VIII, ARTICLE 121**

Relevant Jurisprudence

On islands, islets, rocks, banks and reefs, known as the “skjaergaard” (“rock rampart”) see *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 121, 122, 123, 127, 128, 129, 130, 135, 140, 141, Separate O. Hsu Mo, 155-156, Dissent McNair, 166-167, 170, 182, 184-185, Dissent Read, 193, 194, 199; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 71-77, 84, 88 [UK Memorial], 450-465 [Norway’s Counter-Memorial], Vol.II, 324-325, 503-517, 577-578, 594-596, 660 [UK Reply], Vol.III, 361-366, 436 [Norway’s Rejoinder], Vol.IV, 90-97 [Agent Beckett, 27 Sep 1951].

On 1951 Egypt’s Royal Decree, see Internal Waters, Territorial Sea and Baselines, TS Breadth and Outer Limit *supra*.

On the coastal archipelago, including survey of state practice and case law, see *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 129, 131, 136,

Dissent Read, 193; Pleadings, Vol.I, 79-83 [UK Memorial], 465-495 [Norway's Counter-Memorial], Vol.II, 460-461, 517-553, 578, 638, 660 [UK Reply], Vol.III, 366-394 [Norway's Reply], Vol.IV, 279-282 [Counsel Bourquin, 11 Oct 1951]; *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 301, 303-304. See also *Antarctica* Pleadings, 9, 10, 50, 52 [UK Applications].

1953 *France/United Kingdom Minquiers and Ecrehos* Judgment – see Fisheries *infra*; *Aegean Sea (Interim Measures)* Dissent Stassinopoulos, ICJ Rep. 1976, 35, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 6, 8, 33-37, Dissents de Castro, 65-66, Stassinopoulos, 81, para.21; Pleadings, 3-11 [Greece's Application], 63-66 [Request], 96-99 [Counsel O'Connell, 26 Aug 1976], 467 [Question President de Aréchaga, 16 Oct 1978], 495 [Reply Counsel Economides]; *Tunisia/Libya (Merits)* Dissents Oda, ICJ Rep. 1982, 183, 212, 251-252, 263-266, Evensen, 283, 293, 299-303; *Libya/Malta* Pleadings, Vol.I, 128-132 [Libya's Memorial], 440-455 [Malta's Memorial], Vol.II, 89-100 [Libya's Counter-Memorial], 280 [Malta's Counter-Memorial], Vol.III, 194-197 [Malta's Reply]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 69, 73-74, Declaration Evensen, 84, Separate Os Oda, 100-101, Schwebel, 126-127, Ajibola, 290-292; Denmark's Memorial, paras 271-273, Norway's Counter-Memorial, para.445, Denmark's Reply, paras 299-333, 459-465, Norway's Rejoinder, paras 386-461; Oral Hearings, CR 93/3, 45-55 [Agent Lehmann, 13 Jan 1993], CR 93/6, 67 [Agent Haug, 18 Jan], CR 93/8 [trans.], 22-23 [Counsel Weil, 20 Jan], CR 93/9 [trans.], 26-29 [21 Jan 1993]; *New Zealand v. France* Oral Hearings, CR 95/19, 71-74 [Counsel Lauterpacht, 11 Sep 1995]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 64, 185, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 182-184; Oral Hearings, CR 2000/6, 44 [Counsel Sir Ian Sinclair, 30 May 2000], CR 2000/19, 19-21 [Counsel Queneudec, 22 June 2000]; *Nicaragua v. Honduras* and *Nicaragua v. Colombia* – see Equitable Maritime Boundary Delimitation *supra*.

Nature of a High-Tide Elevation

1930 Hague Draft, Annex II, Appendix B: Compromise-Proposal of the French Delegation (Islands), 251; 1958 TSC, Article 10(1); 1982 LOSC, Article 121(1):

Anglo/Norwegian Fisheries Judgment, ICJ Rep. 1951, 127, 135, 140; Pleadings, Vol.I, 74-75, 84 [UK Memorial], 457 [Norway's Counter-Memorial], Vol.II, 325, 510-511, 516 [UK Reply], Vol.IV, 91 [Agent Sir Eric Beckett, 27 Sep 1951]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 53, Individual O. Carneiro, 88; Pleadings, Vol.I, 58 [UK Memorial], 433-434, 556 [UK Reply], Vol.II, 184, 329 [Counsel Harrison, 24 Sep and 3 Oct 1953]; *Aegean Sea* Pleadings, 96-97 [Counsel O'Connell, 25 Aug 1976]; *Tunisia/Libya (Merits)*

Dissent Oda, ICJ Rep. 1982, 265; *Libya/Malta* Pleadings, Vol.I, 450 [Malta's Memorial], Vol.II, 359 [Malta's Counter-Memorial]; *Denmark v. Norway* Separate O. Ajibola, ICJ Rep. 1993, 299; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 191-197, 248, Separate O. Oda, paras 5-9, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 194-205, Declaration Vereshchetin, para.13, Separate O. Parra-Aranguren, para.4, Dissent Torres Bernardez, paras 523-529, 551; Oral Hearings, CR 2000/13, 31-32 [Counsel Volterra, 13 June 2000], CR 2000/14, 45-49 [Counsel Reisman], CR 2000/15, 8 [14 June], 50-52 [Counsel Weil], CR 2000/19, 19-20 [Counsel Queneudec, 22 June], CR 2000/25, 13-14 [Weil, 29 June 2000] <<http://www.icj-cij.org>>.

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 127-138, 158; 1981 *Dubai/Sharjah* Award [91 ILR 672-677].

Rocks Which Cannot Sustain Human Habitation or Economic Life of their Own

1982 LOSC, Article 121(3):

Habitability

Legal Status of Eastern Greenland Judgment, PCIJ Series A/B, No.53 (1933), 46; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 72 [UK Memorial], 462 [Norway's Counter-Memorial], Vol.II, 507 [UK Reply]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 53, 65, 69, 71-72, Individual O. Basdevant, 78, 80, Individual O. Carneiro, 88, 109; *Minquiers and Ecrehos* Judgment, ICJ Rep. 1953, 53; Pleadings, Vol.I, 64, 84, 346-348 [UK Memorial], 424 n.2, 435 [UK Reply], Vol.II, 327, 329-330, 344 [Counsel Harrison, 3 and 5 Oct 1953]; *Antarctica* Pleadings, 18 [UK Application]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 265-266; Pleadings, Vol.I, 79 [Tunisia's Memorial]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 336-337; Pleadings, Vol.III, 256-257 [Canada's Counter-Memorial]; *Libya/Malta* Pleadings, Vol.I, 129, 132 [Libya's Memorial], Vol.II, 98-99 [Libya's Counter-Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 565, 570, para.356, Separate O. Bernardez, 710-711; *New Zealand v. France* Oral Hearings, CR 95/19, 71 [Counsel Lauterpacht, 11 Sep 1995], CR 95/20 [transl.], 66 [De Brichambaut, 12 Sep 1995]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 54, 64-65, 73-74, Separate Os Oda, 115-116, Schwebel, 126-127, Weeramantry, 267-269, Ajibola, 291, 299, Dissent Fischer, 310; Oral Hearings, CR 93/1Corr., 17, 25, 27-29 [Agent Lehmann, 11 Jan 1993], CR 93/2, 70 [Counsel de Arechaga, 12 Jan], CR 93/4, 24-25, 31-34 [Counsel Bowett, 14 Jan], CR 93/7, 9-21 [Counsel Brownlie, 19 Jan], CR 93/10, 21-24 [Lehmann, 25 Jan], 44-45 [Agent Magid], 71-78 [Counsel Lynge], CR 93/11

[trans.], 43 [Counsel Weil, 27 Jan 1993]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 179, 219, 246, Joint Dissent Bedjaoui, Ranjeva, Koroma, para.198, Dissent Torres Bernardez, para.389, 394; Oral Hearings, CR 2000/14, 45 [Counsel Reisman, 13 June 2000] <<http://www.icj-cij.org>>.

On 1805 *The Anna* Judgment of Lord Stowell [5 C. Rob. 373; 165 E.R. 809; No.5/Simmonds], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 72 [UK Memorial], 462 [Norway's Counter-Memorial], Vol.II, 507 [UK Reply].

On uninhabited Maltese islet of Fifla, see Archipelagic State – Archipelagic Baselines *supra*.

1928 *USA/Netherlands Island of Palmas (Miangas)* Award [*infra*]; 1931 *France/Mexico Clipperton Island* Award [*infra*]; 1977 *Anglo/French* Decision, paras 197, 227; 1998 *Eritrea/Yemen (Phase I)* Award, paras 93, 123-124, 128, 347-357, 446, 449, and 1999 *(Phase II)* Award, paras 32-34, 83, 143, 147 [40 ILM 900, 983 (2001) <<http://www.pca-cpa.org>>].

Economic Life of their Own/Fisheries

Minquires and Ecrehos Judgment, ICJ Rep. 1953, 57-59, 65, Individual Os Basdevant, 79-81, Carneiro, 89, 104; Pleadings, Vol.I, 49-64, 85-88, 98-101, 109-111, 112 [UK Memorial], Vol.II, 87-93 [Counsel Fitzmaurice, 21 Sep 1953]; *Tunisia/Libya (Merits)* Dissents Oda, ICJ Rep. 1982, 265-266, Evensen, 283; Pleadings, Vol.I, 79-83 [Tunisia's Memorial]; *Libya/Malta* Pleadings, Vol.I, 129 [Libya's Memorial], 440 [Malta's Memorial], Vol.II, 98-99 [Libya's Counter-Memorial]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 54, 64-65, 73-74, Separate Os Schwebel, 126-127, Weeramantry, 269-270, Ajibola, 299-300, Dissent Fischer, 310; Oral Hearings, CR 93/1Corr., 25, 28 [Agent Lehmann, 11 Jan 1993], CR 93/4, 24-25 [Counsel Bowett, 14 Jan], CR 93/9, 83 [Question 2 Oda, 21 Jan], GJM 93/5 [Denmark's Reply, 27 Jan], CR 93/10, 21-24 [Lehmann, 25 Jan], 71-78 [Counsel Lyngel], CR 93/11 [trans.], 43 [Counsel Weil, 27 Jan 1993]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.198, ICJ Rep. 2001 (in press); *Indonesia/Malaysia* [Sovereignty Over Island Territory *infra*].

On Netherlands/Venezuela Delimitation Treaty (Aves Island) of 31 March 1978 [Charney/ASIL Report No.2-12 (Nweihed)], see *Tunisia/Libya* Pleadings, Vol.I, 494 [Libya's Memorial]; *Gulf of Maine* Pleadings, Vol.I, 178 [Canada's Memorial], Vol.IV, 443 [US Counter-Memorial], State Practice Vol.I, 491; *Libya/Malta* Pleadings, Vol.II, 111 [Libya's Counter-Memorial], Vol.III, 255 [Malta's Reply], Vol.IV, 65 [Counsel Jaenicke, 10 Dec 1984], 431-432 [Counsel Jaenicke, 21 Feb 1985]; *Denmark v. Norway* Oral Hearings, CR 93/4, 32 [Counsel Bowett, 14 Jan 1993], CR 93/7, 79, 82 [Counsel Brownlie, 19 Jan], CR 93/10, 64-67 [Bowett, 25 Jan 1993].

On Kolbeinsey rock, see Denmark's Reply, paras 25-28; *Denmark v. Norway* Oral Hearings, CR 93/1Corr., 41 [Counsel Thomsborg, 11 Jan. 1993], 93/3, 42 [Agent Lehmann, 13 Jan 1993].

On Eddystone rock (lighthouse), see 1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 4, 114 and 121-144.

1931 *France/Mexico Clipperton Island* Award [*infra*]; 1981 *Iceland/Norway (Jan Mayen) Continental Shelf* Conciliation [see *Equitable Maritime Boundary Delimitation supra*]; *Canada/France* Award, para.43, 49 [31 ILM 1164-1165 (1992)].

See also Exclusive Economic (Fishery) Zone – Production of Energy From the Waters, Currents and Winds; *Equitable Maritime Boundary Delimitation – Economic Factors supra*; and Sovereignty Over Island Territory in this section *infra*.

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On 1804 *Soult v. l'Africaine* Judgment [22 Federal Cases, Circuit & District Courts, 1789/1880, Case No.13179: Bee 204], see *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 514 [UK Reply].

On 1805 *The Anna* Judgment of Lord Stowell [5 C. Rob. 373; 165 E.R. 809; No.5/Simmonds], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 72 [UK Memorial], 452, 454, 462, 466-467, 476-477, 492 [Norway's Counter-Memorial], Vol.II, 506-508, 509, 518, 522, 529, 538, 545, 577, 594-595 [UK Reply], Vol.III, 374-375 [Norway's Rejoinder]; *Minquiers and Ecrehos* Pleadings Vol.II, 198 [Agent Gros, 28 Sep 1953]; *Fisheries Jurisdiction* Pleadings (UK), 321 [Memorial (Merits)]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, ICJ Rep. 2001 (in press), para.198, Dissent Torres Bernardez, para.247; Oral Hearings, CR 2000/6, 46 [Counsel Sinclair, 30 May 2000].

On the 1853 *UK/USA The Washington (The Julia; Bay of Fundy)* Award [6 AJIL 434 (1912); No.47/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 476-477 [Norway's Counter-Memorial], Vol.II, 525-526 [UK Reply].

See also Internal Waters, Territorial Sea and Baselines, Bays *supra*.

On 1870 *Brazil/USA The Canada* Award [No.89/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 478 [Norway's Counter-Memorial], Vol.II, 528 [UK Reply]; *Ambatielos* Pleadings, 100 [Greece's Memorial].

On 1886 *Merchants Mutual Insurance Company v. Allen* (Gulf of Mexico) Judgment [121 US 67], see *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 536 [UK Reply].

On 1903 *UK/USA Alaska Boundary* Award [RIAA XV, 481; No.251/Stuyt], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 455 [Norway's Counter-Memorial], Vol.II, 538-539 [UK Reply], Vol.III, 372 [Norway's Reply].

On 1910 *North Atlantic Coast Fisheries Award* [RIAA XI, 167; No.291/Stuyt], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 477-478 [Norway's Counter-Memorial], Vol.II, 527-528 [UK Reply].

On 1925 *US v. Henning* Judgment [7 Fed. 2nd 488], see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 514 [UK Reply]; *Henning v. US* [13 F. 2d 74; 20 AJIL 114, 445 (1926)].

On 1929 *Middleton v. USA* (Florida Keys) Judgment [32 Fed. 2nd 239], see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 537 [UK Reply].

On 1936 *Ouled Yaneg/Ouled Gacem* (Kerkennahs) Arbitration [*Tunisia/Libya Pleadings*, Vol.I, 308], see *id.* 91-92 [Tunisia's Memorial].

On 1941 *Skiriotes v. Florida* (Gulf of Mexico, Florida Straits) Judgment [331 US 69; 35 AJIL 515, 569 (1941)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 536 [UK Reply].

On 1947 *US v. California* Judgment, see *Internal Waters, Territorial Sea and Baselines supra*.

On 1967 *Atlantis Development Co. v. US*, see *Continental Shelf supra*.

See also *Equitable Maritime Boundary Delimitation – Islands supra*.

Sovereignty over Island Territory

Legal Status of Eastern Greenland – see *Fisheries infra*; *Lighthouses Between France and Greece* and *Lighthouses in Crete and Samos* Judgments, PCIJ Series A/B No.62, 4 (1934) and No.71, 94 (1937), 1954/1956 *France/Greece Lighthouses Claims Awards* [RIAA XII, 161; No.396b/Stuyt]; *Minquiers and Ecrehos* – see *Fisheries infra*; *Antarctica* -see *Fisheries infra*; *North Sea* Judgment, ICJ Rep. 1969, 32, para.46; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 33, para.78, 37, paras 87-89 (see also *Equitable Maritime Boundary Delimitation supra*); *Tunisia/Libya (Intervention)* Separate O. Oda, ICJ Rep. 1981, 32, (*Merits*) Dissent Oda, ICJ Rep. 1982, 253; *Gulf of Maine* Pleadings, Vol.VII, 39 [Counsel Weil, 4 May 1984]; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 26, Dissents Oda, 94, 109, Sir Robert Jennings, 158-159, (*Merits*) Judgment, ICJ Rep. 1985, 41, 42-43, Joint Separate O., 83, Dissent Oda, 158; *Gulf of Fonseca (Intervention)* Judgment, ICJ Rep. 1990, 100-101, 108, 119, (*Merits*) Judgment, ICJ Rep. 1992, 351-386, 553-579, 615, para.431, Separate O. Bernardez, 658-712; *Nauru v. Australia Certain Phosphate Lands in Nauru* case (Trusteeship Agreement) – see *Settlement of Disputes – Preventive Diplomacy B) infra*; *Libya/Chad* Separate O. Ajibola, ICJ Rep. 1994, 81, 86; *East Timor* Oral Hearings, CR 95/3, 48-50 [Co-Agent Correia, 31 Jan 1995], CR 95/10, 11-15 [Co-Agent Burmester, 9 Feb 1995]; *Denmark v. Norway* and *Qatar v. Bahrain* cases – see *Equitable Maritime Boundary Delimitation supra*; *Cameroon v. Nigeria (Preliminary Objections)* Dissent Ajibola, ICJ Rep. 1998, 411.

Indonesia/Malaysia Sovereignty Over Pulau Ligitan and Pulau Sipadan (Application of the Philippines for Permission to Intervene) Judgment, ICJ Rep. 2001 (in press); Oral Hearings, CR 2001/1-4 [25-29 June 2001]; (*Merits*) Judgment, ICJ Rep. 200-- <<http://www.icj-cij.org>>.

Orders, ICJ Rep. 1998, 429, 1999 (in press), 2000 (in press).

Press Statement of Indonesia's Ministry of Foreign Affairs of 27 June 2001, <http://www.dfa-deplu.go.id/policy/releases/press_ind_nolak.html>, 2 July 2001 <<http://www.dfa-deplu.go.id/others/current/2001/sipadan-ligitan-020701.htm>> (in Bahasa Indonesia).

Statement of Malaysia to the 56th General Assembly, UN Doc. A/56/PV.32 (30 October 2001).

On Indonesia/Malaysia Agreement of 28 September 1915, see *North Sea Separate O.* Ammoun, ICJ Rep. 1969, 126.

Nicaragua v. Colombia – see Equitable Maritime Boundary Delimitation *supra*.

On 1964 Cairo Resolution 16(I) of the OAU Assembly, see *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 66, Separate O. de Arechaga, 131; 1985 *Guinea/Guinea-Bissau* Award, para.40 [25 ILM 271 (1986)]; *Burkina Faso/Mali Frontier Dispute* Judgment, ICJ Rep. 1986, 563-567; 1989 *Guinea-Bissau/Senegal* Award [94 RGDIP 252 (1990)], para.62; *Libya/Chad Territorial Dispute* Judgment, ICJ Rep. 1994, 38, Separate O. Ajibola, 61, 82, 87-88, 90; *Botswana/Namibia* Judgment, ICJ Rep. 1999, 1059, para.19 <<http://www.icj-cij.org>>; Oral Hearings, CR 99/1, 13 [Agent Kawana, 15 Feb 1999], CR 99/5 [trans.], 17 [Counsel Cot, 18 Feb], CR 99/6, 13 [Counsel Selepeng, 22 Feb 1999]; 2002 UN *Eritrea/Ethiopia Boundary* Decision <<http://www.pca-cpa.org>>.

On US proposal of 27 June 1973 to submit (by means of a *compromis*) the sovereignty dispute with Canada over Machias Seal Island and North Rock in the Gulf of Maine to the ICJ, as rejected by Canada on 4 January 1977, see *Gulf of Maine* Judgment, ICJ Rep. 1984, 265-266, 332; Pleadings, Vol.III, 256, 257 n.12 [Canada's Counter-Memorial], Vol.V, 475, 488, 552-554 [US Reply]. Cf. *id.* 534, Vol.VI, 461 [Question I.2 of Judge Gros, 19 April 1984], Vol.VII, 36 [Counsel Weil's Reply, 4 May], 181 [Counsel Stevenson's Reply, 9 May]; and Vol.VI, 463 [Question V of Judge Mosler, 19 April], Vol.VII, 73-74 [Deputy Agent Hankey's Reply, 4 May 1984].

On Jan Mayen Island and Svalbard Archipelago, see Equitable Maritime Boundary Delimitation – *Denmark v. Norway* case *supra*.

Presumption in Favour of Sovereignty over Island within the Territorial Sea

Implication to this effect in the *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 128, was relied upon in *Minquires and Ecrehos* Pleadings, Vol.I, 424 [UK

Reply]. Cf. *Anglo/Norwegian Pleadings*, Vol.I, 73 [UK Memorial, para.100] and Vol.II, 508-509 [UK Reply, para.290].

The presumption to this effect was relied upon in the 1870 *UK/Portugal Bulama Island Award* [*infra*] and it was expressly ascertained in the 1998 *Eritrea/Yemen Territorial Sovereignty (Phase I) Award*, paras 25, 97-98, 458, 463, 472-474, 478 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>]; as referred to in *Qatar v. Bahrain (Merits) Judgment*, ICJ Rep. 2001 (in press), paras 99-100, 151-152, 201-209, 220, 252(5), Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 60, 137-143, 158-162, Declaration Vereshchetin, paras 12-13, Separate Os Kooymans, paras 64-66, Al-Khasawneh, para.20, Dissent Torres Bernardez, paras 219, 242-259, 342, 349, 362, 526; Oral Hearings, CR 2000/6, 47-48 [Counsel Sir Ian Sinclair, 30 May 2000], CR 2000/11, 19, 29-34 [Sir Elihu Lauterpacht, 8 June], CR 2000/15, 45-46 [Counsel Weil, 14 June], CR 2000/18, 20-22 [Sinclair, 21 June], CR 2000/22, 17 [Lauterpacht, 28 June 2000] <<http://www.icj-cij.org>>.

Sovereignty over Island Territory and Joint Fishery Rights

See Fisheries – *Minquiers and Ecrehos Judgment*, 1839 UK/France Convention, 1951 UK/France Agreement, and 1950 Norway/Sweden Agreement, *infra*; 1992 *Gulf of Fonseca (Merits) Judgment* – Equitable Maritime Boundary Delimitation *supra*; *Botswana/Namibia Kasikili/Sedudu Judgment*, ICJ Rep. 1999, 1106, para.102, Dissent Vice-President Weeramantry, 1192-1195, paras 110-119; Oral Hearings, CR 99/1, 20-21 [Agent Kawana, 15 Feb 1999], 29 [Counsel Chayes], CR 99/6, 22 [Counsel Selepeng, 22 Feb], CR 99/10, 10-11 [Agent Kawana, 1 March 2000] <<http://www.icj-cij.org>>.

Canada/France Award, paras 53-55 [31 ILM 1166 (1992)]; 1998 *Eritrea/Yemen Territorial Sovereignty (Phase I) Award*, paras 20, 29, 39-40, 52-53, 67, 118, 126-129, 258-273, 302-303, 308-310, 313-316, 337-340, 347-357, 446, 495, 525-526 and operative para.527(vi), and 1999 *Maritime Delimitation (Phase II) Award*, Introduction, paras 2-3, Chapter I, paras 20, 27-31, 38, Chapters II and IV, and Annex II: Yemen's Answer to Judge Schwebel's Question [40 ILM 900, 983 (2001) <<http://www.pca-cpa.org>>].

Environmental Factors in Disputes over Territorial Sovereignty

Legal Status of Eastern Greenland PCIJ Series A/B, No.53 (1933) – Judgment, 26-27 (climate and character of Greenland as an Arctic country), 50-51; *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 13-14 [Denmark's Memorial], No.63, 677-685 [Denmark's Reply]; *Antarctica Pleadings*, 13, 19-20, 58, 60 [UK Applications]; *Gulf of Maine Pleadings*, Vol.III, 200-201 [Canada's Counter-Memorial]; *Denmark v. Norway Oral Hearings*, CR 93/2, 8-26 [Counsel Lyngde,

12 Jan 1993]; *Botswana/Namibia Kasikili/Sedudu* Judgment, ICJ Rep. 1999, 1054, 1095, 1106-1108, paras 12, 76, 102-103, Separate O. Kooymans, paras 21-38, Dissent Vice-President Weeramantry, paras 4-5, 47, 77-119 <<http://www.icj-cij.org>>; Oral Hearings, CR 99/1, 20-22 [Agent Kawana, 15 Feb 1999], 29 [Counsel Chayes], CR 99/2, 48-49 [Counsel Richards, 16 Feb], CR 99/4, 37 [Counsel Faundez, 17 Feb], CR 99/6, 20-23 [Counsel Selepeng, 22 Feb], CR 99/7, 27-28 [Counsel Brownlie, 23 Feb], CR 99/10, 11-17 [Agent Kawana, 1 March 2000]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.104, Dissent Torres Bernardez, para.399 <<http://www.icj-cij.org>>.

1998 *Eritrea/Yemen Territorial Sovereignty (Phase I)* Award, paras 43, 312 [40 ILM 900 (2001)] <<http://www.pca-cpa.org>>].

See also Equitable Maritime Boundary Delimitation, Sector Principle/Arctic and Antarctic *supra*.

Islands in Lakes and Rivers

Botswana/Namibia Kasikili/Sedudu Judgment – see Equitable Maritime Boundary Delimitation, Thalweg Principle/Lakes and Rivers *supra*; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, ICJ Rep. 2001 (in press), paras 177, 179, Separate O. Kooymans, para.76, Dissent Torres Bernardez, paras 210, 380; Oral Hearings, CR 2000/5 [trans.], 32, 35-36 [Counsel Salmon, 29 May 2000], CR 2000/8, 34 [Counsel Shankardass, 5 June], CR 2000/9 [trans.], 53 [Counsel Queneudec], CR 2000/11, 23-24 [Counsel Lauterpacht, 8 June], CR 2000/15, 46-47 [Counsel Weil, 14 June], CR 2000/17, 25 [Counsel Shankardass, 20 June], CR 2000/18, 20 [Counsel Sinclair, 21 June], 28 [Counsel David], CR 2000/22, 15 [Lauterpacht, 28 June 2000].

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On 1202 Decision of the French Court concerning the Channel Islands, see *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 56, 75-76, Individual O. Basdevant, 75-76, 91; Pleadings, Vol.I, 378, 383 [France's Counter-Memorial], 496-502 [UK Reply], Vol.II, 98, 110-113 [Counsel Wade, 21 Sep 1953].

On 1865 *Netherlands/Venezuela Aves Island* Award [Stuyt/No.54], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 433, 462 [Norway's Counter-Memorial], No.63, 733 [Denmark's Reply]; *Minquiers and Ecrehos* Pleadings, Vol.II, 267 [Agent Gros, 30 Sep 1953]; *Arbitral Award* Dissent Weeramantry, ICJ Rep. 1991, 153; *Gulf of Fonseca* Oral Pleadings, C 4/CR 91/37, 30, 35 [Counsel Highet, 31 May 1991]; *Qatar v. Bahrain (Merits)* Dissent Torres Bernardez, para.242, ICJ Rep. 2001 (in press).

On 1870 *UK/Portugal Bulama Island* Award of the US President [Stuyt/No.85], see *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 392

[Norway's Counter-Memorial]; *Qatar v. Bahrain (Merits)* Joint Dissent Bedjaoui, Ranjeva, Koroma, para.94 n.27, ICJ Rep. 2001 (in press).

On 1885 *Germany/Spain Caroline Islands* Proposition of His Holiness Pope Leo XIII as Mediator [No.141/Stuyt], see *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 434-436, 518-519 [Norway's Counter-Memorial], No.63, 733 [Denmark's Reply]; *Minquiers and Ecrehos Pleadings*, Vol.I, 545 n.1 [UK Memorial].

On 1911 *Mexico/USA Chamizal Award*, see *Equitable Maritime Boundary Delimitation supra*.

On 1914 *Netherlands/Portugal Island of Timor Award* [No.275/Stuyt; 9 AJIL 240 and Supp. 107 (1915); PCA 1999, 98], see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 138 n.5; *Gulf of Maine Pleadings*, Vol.II, 97-98 [US Memorial], Vol.III, 200, 201 n.54 [Canada's Counter-Memorial], Vol.V, 99 n.79 [Canada's Reply]; *East Timor Dissent Skubiszewski*, ICJ Rep. 1995, 226-227.

On 1917 *El Salvador v. Nicaragua Judgment*, see *Equitable Maritime Boundary Delimitation supra*.

On 1928 *USA/Netherlands Island of Palmas (Miangas) Award*, [No.366/Stuyt; PCA 1999, 118], see *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 104 [Denmark's Memorial], 389-390, 395-396, 404, 426-427, 430, 477, 509 [Norway's Counter-Memorial], No.63, 733-734, 741-744, 776-777, 906 [Denmark's Reply], 1196, 1261-1262, 1307, 1309-1311, 1358-1360 [Norway's Rejoinder], No.66, 2866-2869, 2876-2877, 2879, 2883-2884, 2886-2888, 2906-2910 [Counsel de Visscher, 29 and 30 Nov 1932], 2921 [Counsel Per Rygh, 3 Dec], 3176 [Counsel Sunde, 12 Dec], 3231-3232, 3236-3237, 3274-3275 [Counsel Gidel, 13 Dec 1932], No.67, 3411, 3437, 3452 [de Visscher, 19 Jan 1933], 3550, 3552, 3555 [Gidel, 2 February 1933]; *Corfu Channel Dissent Winiarski*, ICJ Rep. 1949, 53; *US Nationals in Morocco Pleadings*, Vol.I, 67 [France's Memorial], Vol.II, 172, 175 [Agent Gros]; *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 381, 568 [Norway's Counter-Memorial], Vol.II, 648-651, 657-658 [UK Reply], Vol.III 441 [Norway's Rejoinder]; *Ambatielos Pleadings*, 410 [Counsel Sir Gerald Fitzmaurice, 26 March 1953]; *Minquiers and Ecrehos Pleadings*, Vol.I, 104-108 [UK Memorial], 540-561 [UK Reply], Vol.II, 32, 47-60 [Counsel Heald, 17 and 18 Sep 1953], 94 [Counsel Fitzmaurice, 21 Sep 1953], 96 [Counsel Wade], 206, 215, 230, 234-236, 260, 265, 271 [Agent Gros, 28, 29 and 30 Sep], 284-285 [Heald, 2 Oct], 367 [Fitzmaurice, 6 Oct], 375 [Agent Gros, 7 Oct 1953]; *Antarctica Pleadings*, 33-34, 68, 71-72 [UK Applications], 99-100 [UK Letter]; *Cambodia v. Thailand Temple of Preah Vihear (Merits) Dissent Moreno Quintana*, ICJ Rep. 1962, 69-70.

North Sea Individual O. Ammoun, ICJ Rep. 1969, 115; *North Sea Pleadings*, Vol.II, 169 [Agent Jaenicke, 4 Nov 1968]; *Fisheries Jurisdiction Pleadings (UK)*, 318 [Memorial (Merits)]; *Nuclear Tests Joint Dissent*, ICJ Rep. 1974, 361;

Aegean Sea Pleadings, 422 [Counsel Weil, 13 Oct 1978]; *Tunisia/Libya Pleadings*, Vol.IV, 460 [Counsel Dupuy, 17 Sep 1981], Vol.V, 356 [Counsel Sir Francis Vallat, 19 Oct 1981]; 1981 *Dubai/Sharjah Award* [91 ILR 594, 622]; *Gulf of Maine Pleadings*, Vol.IV, 104, 109-110 [US Counter-Memorial], Vol.V, 81 n.8, 89 n.37 [Canada's Reply], Vol.VI, 376 [Counsel Rashkow, 16 April 1984], Vol.VII, 98 [Counsel Bowett, 5 May 1984]; *Guinea-Bissau v. Senegal Arbitral Award Oral Hearings*, CR 91/4, 33 [Counsel Bowett, 5 April 1991]; *Lockerbie (Provisional Measures) Dissents* El-Kosheri, ICJ Rep. 1992, 106, 211; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 563-564, Separate O. Bernardez, 677; *Oral Pleadings*, C 4/CR 91/27 [trans.], 8 [Counsel Bardonnet, 21 May 1991], CR 91/33, 79-80 [Counsel Highet, 29 May 1991]; *Libya/Chad Separate O.* Ajibola, ICJ Rep. 1994, 81, Dissent Sette-Camara, 98; 1998 *Eritrea/Yemen (Phase I) Award*, paras 104, 450-451, 454-455, 491 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>]; *Botswana/Namibia Declaration* Higgins, para.3, Separate O. Kooymans, para.14, ICJ Rep. 1999, 1114, 1146 <<http://www.icj-cij.org>>; *Oral Hearings*, CR 99/1, 37-38 [Counsel Chayes, 15 Feb 1999], CR 99/4, 60 [Agent Kawana, 17 Feb], CR 99/5 [trans.], 19 [Counsel Cot, 18 Feb], CR 99/5, 56 [Chayes], CR 99/8, 17 [Counsel Lady Fox, 24 Feb 1999]; *Qatar v. Bahrain (Merits) Judgment*, ICJ Rep. 2001, 1114, 1146, para.100, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 62, 94 n.27, 143, Separate O. Kooymans, paras 63, 65-66, 71, Dissent Torres Bernardez, paras 62-63, 74, 219, 243-244, 349, 364, 429; *Oral Hearings*, CR 2000/6, 46 [Counsel Sinclair, 30 May 2000], CR 2000/11, 25, 30-33, 36-37 [Sir Elihu Lauterpacht, 8 June], CR 2000/14, 8 [13 June 2000], 36 [Counsel Reisman], CR 2000/15, 11-12 [14 June], 43, 46, 48 [Counsel Weil], CR 2000/18, 7 [Counsel Bundy, 21 June], 20-21 [Sinclair], CR 2000/19, 25 [Agent Al-Muslemani, 22 June], CR 2000/21, 7 [Counsel Paulsson, 27 June], CR 2000/22, 16 [Lauterpacht, 28 June], CR 2000/25, 10 [Reisman, 29 June 2000]; *Congo v. Belgium Arrest Warrant of 11 April 2000 Separate O.* President Guillaume, para.4, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>.

On 1931 *France/Mexico Clipperton Island Award* [No.293/Stuyt; 26 AJIL 390 (1932); 27 AJIL 130-133 (1933)], see *Eastern Greenland Pleadings*, PCIJ Series C, No.63, 733, 904, 906 [Denmark's Reply], 1262 [Norway's Rejoinder], No.66, 2888-2890 [Counsel de Visscher, 30 Nov 1932], 2921 [Counsel Per Rygh, 3 Dec], 3176 [Counsel Sunde, 12 Dec], 3219-3220, 3224, 3230, 3236-3237, 3239, 3249, 3250, 3276, 3278-3280 [Counsel Gidel, 13 Dec 1932], No.67, 3404-3405 [de Visscher, 19 Jan 1933], 3542-3543, 3552-3555 [Gidel, 2 Feb 1933]; *Anglo/Norwegian Fisheries Pleadings*, Vol.IV, 523-524 [Counsel Bourquin, 26 Oct 1951]; *Minquiers Pleadings*, Vol.II, 215, 232, 266-267 [Agent Gros, 28, 29 and 30 Sep 1953], 284-285 [Counsel Heald, 2 Oct 1953]; *Antarctica Pleadings*, 33-34, 71-72 [UK Applications]; *Gulf of Fonseca Oral Hearings*, C 4/CR 91/33, 65-66, 79 [Counsel Highet, 29 May 1991]; *Qatar v. Bahrain (Merits) Dissent*

Torres Bernardez, para.429, ICJ Rep. 2001 (in press); Oral Hearings, CR 2000/12, 60 [Counsel Reisman, 9 June 2000].

On 1959 *James Buchanan & Co. v. Société Hanappier-Peyrelongue et Cie and Another* Judgment, see Fisheries, *Minquiers and Ecrehos* Judgment *infra*.

On 1968 *India/Pakistan Rann of Kutch* Award [50 ILR 2; 7 ILM 633 (1968); 65 AJIL 346-357 (1971); 23 ICLQ 821 (1974); No.433/Stuyt], see *Gulf of Maine* Pleadings, Vol.VII, 331 [US Agent's Letter]; *Libya/Malta* Pleadings, Vol.I, 443, 474 n.2 [Malta's Memorial], Vol.II, 72 [Libya's Counter-Memorial]; *Libya/Chad* Separate O. Ajibola, ICJ. Rep. 1994, 88; *Botswana/Namibia* Oral Hearings, CR 99/1, 37 [Counsel Chayes, 15 Feb 1999], CR 99/5 [trans.], 14 n.25, 20-22 [Counsel Cot, 18 Feb 1999]; *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/5, 29 [Counsel Salmon, 29 May 2000].

On 1977/1984 *Argentina/Chile Beagle Channel* case, 1981 *Dubai/Sharjah* and 1985 *Guinea/Guinea-Bissau* Awards, see Equitable Maritime Boundary Delimitation *supra*.

On 1998 and 1999 *Eritrea/Yemen* Awards, see Equitable Maritime Boundary Delimitation *supra*.

See also Internal Waters, Territorial Sea and Baselines – Maintenance of Navigational Aids and Territorial Sovereignty *supra*.

HIGH SEAS

1958 HSC; 1958 HSFC

1982 LOSC, PART V, ARTICLE 58, PART VI, ARTICLES 78-79, PART VII, ARTICLES 86-120

1992 UNCED RIO AGENDA 21, CHAPTER 17

1995 SSA

Freedom of the High Seas

1958 HSC, Article 2; 1982 LOSC, Article 87:

SS Lotus – see Status of Ships/Criminal Jurisdiction *infra*; *Eastern Greenland* Pleadings, PCIJ Series C, No.63, 767-768 [Reply of Denmark], No.67, 3346 [Agent Steglich-Petersen, 17 Jan 1933]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 22, Individual O. Alvarez, 46, Dissent Azevedo, 98, 103; *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 139, Individual O. Alvarez, 146, Separate O. Hsu Mo, 157, Dissent Sir Arnold McNair, 158-159, 178, 183, 185, Dissent Read, 187, 189-190; *Anglo/Norwegian* Pleadings, Vol.I, 58, 95 [UK Memorial], 342-345, 361, 418-419, 476 [Norway's Counter-Memorial], Vol.II, 312-315, 391-393, 412-413, 428-429, 464-467, 470, 608-609, 643, 646-647, 663, 666, 677 [UK Reply], Vol.III, 262-263 [Norway's Rejoinder],

Vol.IV, 395 [Counsel Waldock, 18 October 1951]; *Minquiers and Ecrehos* Pleadings, Vol.I, 70 [UK Memorial], 373, 403 [France's Counter-Memorial], 441-443, 446-448, 451, 466 [UK Reply], 726 [France's Rejoinder], Vol.II, 70-71, 73, 82-83 [Counsel Fitzmaurice, 18 and 19 Sep 1953], 254-256 [Agent Gros, 30 Sep], 354 [Fitzmaurice, 5 Oct 1953]; *IMCO* Pleadings, 44 [Liberia], 134-135, 138-141 [USA], 256 [India]; *North Sea* Judgment, ICJ Rep. 1969, 39-40, para.65, Separate O. Ammoun, 101-106, 111-112, 118, Dissent Morelli, 199, 201-202, Dissent Lachs, 224; *North Sea* Pleadings, Vol.I, 309 [NL Counter-Memorial], Vol.II, 66 [Agent Jaenicke, 25 Oct 1968], 110 [Counsel Sir Humphrey Waldock, 29 Oct], 121-123, 125-126, 137 [Agent Riphagen, 30 and 31 Oct], 162 [Questions Sir Gerald Fitzmaurice, 1 Nov], 242-244 [Reply by Waldock to Questions Fitzmaurice].

Fisheries Jurisdiction (Jurisdiction) Separate Os Fitzmaurice, ICJ Rep. 1973, 24-26, 68-70, (*Merits*) Judgments, ICJ Rep. 1974, 22, 191, Declarations Ignacio-Pinto, 37, 210, Separate O. Dillard, 56-57, 63, Separate Os de Castro, 80-83, 92-93, 96-97, 225, Separate Os Waldock, 107-108, 227, Dissents Onyeama, 171, 244; *Fisheries Jurisdiction* Pleadings (UK), 318-320, 365 [Memorial (*Merits*)], 461 [Counsel Silkin, 25 March 1974], 480, 497-499 [Counsel Slynn, 29 March 1974], 209-210 [Memorial (*Merits*)], (FRG), 217-218 [Memorial (*Merits*)]; *Nuclear Tests (Interim Measures)* Orders, ICJ Rep. 1973, 103-104, 139-140, Dissents Forster, 114, 148, Dissents Ignacio-Pinto, 129, 163; *Nuclear Tests* Judgments, ICJ Rep. 1974, 265, 469, Dissent Gros, 281, Joint Dissents, 314, 361-362, 370, 469, 513-514, 522, Dissent de Castro, 390, Dissent Barwick, 425-427, 434, 438; Pleadings (Australia), 13-14 [Application], 43-44, 56 [Request], 330, 331, 337-343, 363-364 [Memorial], 514-522 [Counsel Byers, 9 July 1974], (New Zealand), 6-7 [Application], 49, 53, 58 [Request], 204, 209, 245-246 [Memorial], 258-259, 267 [Counsel Finlay, 10 July 1974], 297, 429-431 [Replies Agent, 15 July 1974]; *Tunisia/Libya (Merits)* Separate O. de Arechaga, ICJ Rep. 1982, 120, Dissent Oda, 171, 178, 201-202, 206, 223-224, 231; *Gulf of Maine* Judgment, ICJ Rep. 1984, 278, 340-344; Pleadings, Vol.III, 150, 225 [Canada's Counter-Memorial]; *Libya/Malta* Pleadings, Vol.II, 251 [Malta's Counter-Memorial].

Nicaragua v. USA Military and Paramilitary Activities (Provisional Measures) Order, ICJ Rep. 1984, 170, para.1(b) and (e), 181, para.28, 187, para.41(B)(1), Dissent Schwebel, 190, 199, (*Jurisdiction and Admissibility*) Judgment, ICJ Rep. 1984, 424, para.73, *as reaffirmed* by *Nicaragua v. USA (Merits)* Judgment, ICJ Rep. 1986, 93, para.174, also *id.* 46-53, paras 76-92, and 111-112, paras 213-214, Dissent Schwebel, 259; 1995 NZ Request (*Examination of the Situation*), para.66.

Iran v. USA Oil Platforms (Preliminary Objection) Judgment, President Bedjaoui concurring, ICJ Rep. 1996, 819-820, relying on the *Oscar Chinn* Judgment, PCIJ Series A/B, No.63, 65, 85, *as reaffirmed* by (*Counter-Claim*)

Order, Vice-President Weeramantry, Acting President, and President Schwebel concurring, ICJ Rep. 1998, 204, interpreted the “freedom of commerce and navigation” clause contained in the FCN Treaties (Article X(1) of the 1955 Iran/USA Treaty) as not limited to maritime commerce, but as covering commerce in general, including oil platforms located within the EEZ/CS that are connected by pipelines to the oil terminals (ports). Dissenting Opinion of Vice-President Schwebel, ICJ Rep. 1996, 885-889, advocated alternative interpretation restricting this clause to maritime commerce and shipping and confining the term “commerce” to acts of purchase and sale, thus excluding production of goods or commodities. He considered that the *Oscar Chinn* gave the Court insufficient support, because the term there under construction was “freedom of trade” not freedom of commerce; Oral Hearings, CR 96/13, 41-44 [Counsel Crook, 17 Sep 1996], CR 96/14, 35-40 [Counsel Bundy, 19 Sep], CR 96/15 [trans.], 24-32 [Counsel Condorelli, 20 Sep], CR 96/16, 31-34 [Crook, 23 Sep 1996].

See also *Oil Platforms (Merits)* Judgment, ICJ Rep. 200- (in press) <<http://www.icj-cij.org>>.

Cf. *M/V Saiga (Merits)* Counter-Memorial of Guinea, paras 100-101, relying on the *Oscar Chinn*'s distinction between freedom of trade and freedom of navigation, and Reply of Saint Vincents, para.128; *Southern Bluefin Tuna (Jurisdiction)* A/NZ Reply, paras 47, 53 n.62, Hearings, Vol.II [Counsel Burmester, 8 May 2000] <<http://www.worldbank.org/icsid>>.

Spain v. Canada Fisheries (Jurisdiction) Judgment, ICJ Rep. 1998, 432, paras 10-12, 20-23, 53, 61, 87, Separate O. President Schwebel, 470, paras 6-7, Torres Bernardez, 582, paras 74, 317-431; Pleadings, 19-20, 123 [Spain's Memorial], 423-425 [Agent Pastor Ridruejo, 9 June 1998], 430, 435-441 [Counsel Rodriguez].

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], paras 17-34; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Anderson, para.2 <<http://www.itlos.org>>.

Nationality of Ships – Genuine Link

1958 HSC, Articles 5 and 10; 1982 LOSC, Articles 91 and 94:

Reparation for Injuries Suffered in the Service of the United Nations ICJ Rep. 1949, President J. Basdevant – Advisory Opinion, 174, Dissent Hackworth, 202-203, Dissent Badawi Pasha, 206-207 n.1. For reliance on the Court's finding with respect to exceptions in which “protection may be exercised by a State on behalf of persons not having its nationality” [*id.* 181], see *Barcelona Traction (Second Phase)* Dissent Riphagen, ICJ Rep. 1970, 346, referring to cases of “functional” protection (members of the crew of a vessel flying the flag of the State).

For reliance on the 1949 Advisory Opinion and Dissents Hackworth and Badawi Pasha as well as on the 1970 Dissent Riphagen in this respect, see *M/V Saiga* Memorial of Saint Vincent and the Grenadines, para.170 n.28, its Reply, paras 84-85, and Oral Hearings, ITLOS/PV.99/1, 22-23 [Counsel Plender, 8 March 1999]; as contested by Rejoinder of Guinea, paras 67-68.

Corfu Channel (Merits) Judgment, ICJ Rep. 1949, 28-29, as relied upon in *IMCO* Pleadings, 132 [USA], 179 [Panama], 334 [Italy, 28 April 1960]; *Corfu* Pleadings, Vol.IV, 548 [Agent Sir Eric Beckett, 18 Jan 1949].

Liechtenstein v. Guatemala Nottebohm (Second Phase) ICJ Rep. 1955, 4, President G.H. Hackworth – Judgment, 23.

An attempt to set limits (by requiring a link other than that based on mere registration) to the authority of states in according their nationality to ships, was undertaken by the Institut de Droit International as early as in 1896 [15 *Annuaire IDI* 51, 52 (1896). Cf. *ILC Yearbook* 1956-II, 279; *IMCO* Pleadings, 343-344 (Italy, 28 April 1960), 367 (Norway, 29 April 1960)]. But it was only as a result of proposal of the Netherlands (which along with Britain and Norway were concerned about competition from the “flags of convenience” or “open registry” ships), which was made in express reliance on the *Nottebohm* finding with a view of opposing such fleets [*ILC Yearbook* 1956-II, 15], that the ILC applied to ships the concept of “genuine link” (“un lien substantiel”) [*id.* 278-279; 1961-II, 49, 53], enunciated in the *Nottebohm* Judgment with respect to individuals in the context of the question whether *Nottebohm* was a naturalized citizen of Liechtenstein for the purpose of diplomatic protection vis-à-vis Guatemala. The ILC draft became Article 5 of the 1958 HSC, with some changes introduced during UNCLOS I on the initiative of the genuine link’s proponents [*UNCLOS I Off. Rec.* 1958-II, 20. Cf. *Barcelona Traction (Second Phase)* Separate O. Jessup, ICJ Rep. 1970, 186-187; *M/V Saiga* Judgment, ITLOS Case No.2, 38 ILM 1323 (1999), para.80.].

Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization (IMCO) ICJ Rep. 1960, President H. Klaestad – Advisory Opinion, 150, Dissent President Klaestad, 173, Dissent Moreno Quintana, 177; Order, ICJ Rep. 1959, 267.

By means of the IMCO Assembly Resolution 12(1) of 19 January 1959, the Court was requested to give an Advisory Opinion on whether the Maritime Safety Committee (MSC), which was elected on 15 January 1959 during the First Assembly, was constituted in accordance with Article 28(a) of the Convention for the Establishment of the IMCO of 6 March 1948 [in force: 17 March 1958, 289 UNTS 3, as amended, 607 UNTS 276; 649 UNTS 335; 1080 UNTS 375;

1276 UNTS 468; 1380 UNTS 268, 288; IMO Assembly Resolutions 724(17) and 735(18); see also Settlement of Disputes, Article 287(1)(d) and Annex VIII *infra*, a specialized agency of the United Nations. The case was the first instance in which the Court held to be unconstitutional action taken by an international organization. Judge Sir Hersch Lauterpacht died on 8 May 1960, before the *IMCO* Advisory Opinion, on which he was working at the time, was delivered. Cf. reliance on Sir Hersch's view, in *IMCO* Pleadings, 123 [USA]. Cf. also *Nuclear Weapons (WHO)* Separate O. Oda, ICJ Rep. 1996, 89-90; Hearings, CR 95/34, 31 [UK, 15 Nov 1995].

The *IMCO* case testified to difficulties surrounding application of the then newly transposed *Nottebohm's* concept of genuine link to nationality of ships. During the *IMCO* proceedings, the UK, Netherlands, France and Norway argued in support of the MSC election and in favour of the genuine link [*IMCO* Pleadings, 216 (Switzerland), 250-251, 355-359 (NL, 29 April 1960), 365-368 (Norway), 374, 383 (UK)], while Liberia, the USA, Panama and India contested the validity of election and were against application of the genuine link analogy to the open registries [*id.* 71, 83 (Liberia), 115-150 (USA), 181 (Panama), 269-279, 298-299 (L, 26 and 27 April), 317-319 (P), 404-405, 407 (L, 3 May), 425-429 (USA, 4 May 1960)]. The Court reformulated a general question put to it into a more specific question whether the Assembly, in not electing Liberia and Panama to the MSC, exercised its electoral power in accordance with Article 28(a) of the *IMCO* Convention. Basing itself almost exclusively on treaty interpretation, the Court answered that question in the negative. As possession of "an important interest in maritime safety" was implied under this article in relation to the eight "largest ship-owning nations", the Court could not accept the Assembly's discretion to decide which states have or do not have such interest and to deny the MSC membership to any state regardless of the size of its tonnage or any other criteria [ICJ Rep. 1960, 161]. Of two tests of the "largest ship-owning nations", i.e., the tonnage beneficially owned by the nationals of a state and the registered tonnage of a flag state regardless of its private or state ownership, the Court opted for the latter test, which was advocated by Liberia, Panama and the USA and was confirmed by a number of treaties dealing with load lines, safety at sea, salvage and marine pollution [*id.* 166-170; *IMCO* Pleadings, 48-54, 86-99, 104-113 (Liberia), 120-121, 124-127, 136-137, 149 (USA), 190-191, 201-203 (Panama), 257 (India)]. The Court found the criterion of registered tonnage to be "practical, certain and capable of easy application". In view of its findings, the Court considered that an examination of the contention based on a genuine link, under Article 5 of then unratified 1958 HSC, was irrelevant for the purpose of answering the question submitted to it [ICJ Rep. 1960, 171]. Cf. *Oil Platforms (Preliminary Objection)* Separate O. Higgins, ICJ Rep. 1996, 847-848.

The Second IMCO Assembly held on 5-14 April 1961 adopted Resolution 1(2) which provided for dissolving the MSC elected in 1959 and constituting a new MSC under Article 28 of the IMCO Convention as interpreted by the *IMCO Advisory Opinion* [12 ICLQ 42-51, 78-81 (1963)]. On 13 April 1961, while electing all MSC members anew, the Assembly elected the group of “eight” on the basis of the gross tonnage as listed in the *Lloyd’s Register of Shipping* for 1961 (the USA, Britain, Norway, Liberia, Japan, Greece, Italy and France). Since an amendment of the IMO Convention of 17 October 1974 [in force: 1 April 1978, 1080 UNTS 375], the MSC is open to all members of the Organization.

Belgium v. Spain Barcelona Traction, Light and Power Company, Ltd. (Second Phase) ICJ Rep. 1970, President J.L. Bustamante y Rivero – Judgment, 3 [rejecting at 42 relevance of the *Nottebohm* analogy], Separate O. Jessup, 161, 183-191.

Judge Jessup addressed at some length the *Nottebohm* concept of genuine link with a view of applying it to the relationship between a corporation and a state involved in that case. He considered it “a general principle of law” applicable both to ships flying flags of convenience and to the diplomatic protection of corporations. Judge Jessup stressed an apparent influence of the link concept on the *IMCO* case, despite the fact that the Court declined to examine its customary law status, recognized in the *IMCO* Dissent of Judge Moreno Quintana [ICJ Rep. 1960, 178].

For the view in support of relevance of the *Nottebohm* analogy in the *Barcelona Traction* case, see also Separate O. Sir Gerald Fitzmaurice, ICJ Rep. 1970, 79-84; *ELSI* Pleadings, Vol.II, 250 n.4 [Counter-Memorial of Italy].

For reliance on *Barcelona Traction* Separate O. Jessup as “a valid statement of what international law is still requiring as a minimum standard concerning the genuine link of ships”, see *M/V Saiga* Counter-Memorial of Guinea, paras 66-68. But see 1949 *Reparation* Advisory Opinion *supra*.

North Sea Continental Shelf Pleadings, Vol.II, 242 [Reply by Counsel Sir Humphrey Waldock to Questions Fitzmaurice, 8 Nov 1968], invoking a genuine link principle of Article 5 as an example of “progressive development” of the law effected by the 1958 HSC.

1986 *Canada/France Filletting in the Gulf of St. Lawrence* Award [No.444/Stuyt; 90 RGDIP 713 (1986); 91 RGDIP 707 (1987)], para.27.

Iran v. USA Oil Platforms case reflected a novel aspect of the genuine link which arose in 1987 in the context of the Iran/Iraq War and reflagging (re-registering) of Kuwaiti tankers under the US and UK flags with a view of their protection against Iranian attacks [26 ILM 1422 (1987)] – (*Counter-Measures*)

Order, ICJ Rep. 1998, 201-202; Oral Hearings, CR 96/12, 25-39 [Cdr Neubauer, 16 Sep 1996], CR 96/14, 45-54 [Counsel Bundy, 19 Sep 1996].

Spain v. Canada Fisheries (Jurisdiction) Judgment, ICJ Rep. 1998, 432, paras 10-12, 17-20, 53, 61, 74-77, Separate O. President Schwebel, 471-472, paras 6-7, Dissents Vereshchetin, 580, para.22, Torres Bernardez, 698-703, paras 317-332, at 714, paras 369-370; Pleadings, 268-272 [Canada's Counter-Memorial], Hearings, CR 98/9 [trans.], 22 [Counsel Rodriguez, 9 June 1998], 98/10 [trans.], 7-8 [Counsel Brotons, 10 June], 46-49 [Counsel Dupuy], CR 98/12, 21-26 [Counsel Willis, 12 June 1998].

Saint Vincent and the Grenadines v. Guinea M/V Saiga Judgment, paras 55-109, ITLOS Case No.2, Separate O. President Mensah, Separate O. Vice-President Wolfrum, Separate Opinions Zhao, Nelson, Rao, Anderson, Vukas and Laing, Dissent Warioba, Dissent Ndiaye, 38 ILM 1323 (1999) <<http://www.itlos.org>>.

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, para.22, 39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>.

2000 *Panama v. France and Seychelles v. France*, and 2001 *Belize v. France and Panama v. Yemen* decisions, ITLOS Cases Nos 5-6 and 8-9 – see Settlement of Disputes, Prompt Release of Vessels and Crews *infra*.

On the whole, the developments since importation of the genuine link from the *Nottebohm* Judgment to the rules governing nationality of ships, including the scant prospects for entry into force of the 1986 UNCTAD Convention on Conditions for Registration of Ships [26 ILM 1229 (1987)], have confirmed perils inherent in such, by its very nature inappropriate, transposition and the far-reaching wisdom of the 1960 *IMCO* Advisory Opinion. On the 1986 Convention, see *Great Belt* Pleadings, 349-350, 354 [Finland's Memorial], 593 [Denmark's Counter-Memorial; *M/V Saiga* Judgment, 38 ILM 1323 (1999), para.84.

On Convention on Certain Questions Relating to the Conflict of Nationality Laws, The Hague, 12 April 1930 [in force: 1 July 1937, 179 LNTS 89], see *Nottebohm (Second Phase)* Judgment, ICJ Rep. 1955, 22, as relied upon by *North Sea* Dissent Lachs, ICJ Rep. 1969, 224-225, also citing *Italy/USA Merigé* [22 ILR 450] and *Flegenheimer* [25 ILR 149] decisions [No.B 15/Stuyt]; *Great Belt* Pleadings, 345 [Finland's Memorial].

On 1875 *Colombia/USA The Montijo* Award [54 AJIL 113 (1960); No.108/Stuyt], see *IMCO* Pleadings, 404 [Liberia, 3 May 1960]; *M/V Saiga* Separate O. Anderson, n.1 [38 ILM 1323 (1999)].

On 1905 *France/UK The Muscat Dhows* Award [2 AJIL 921, 923 (1908); No.276/Stuyt; PCA 1999, 42], see *IMCO* Pleadings, 133 n.1 [USA], 183, 317 [Panama, 27 April 1960], 404 [Liberia, 3 May 1960]; *M/V Saiga* Separate O. Anderson, n.1 [38 ILM 1323 (1999)].

On 1906 *Mortensen v. Peters (The Niobe; Moray Firth)* Judgment, see Fisheries *infra*.

On 1935 *Canada/USA I'm Alone (The Wolcott, The Dexter)* Award, see Use of Force in Enforcement at Sea *infra*.

On 1948 *Naim Molvan Owner of MV Asya v. Attorney General for Palestine (The Asya, The Chequers)* Judgment [A.C. 351 (J.C.P.C.; 81 Lloyd's List L.R. 277; 42 AJIL 953 (1948); 54 AJIL 77 (1960)], see *IMCO* Pleadings, 254 [India]; *M/V Saiga* Dissent Ndiaye [38 ILM 1323 (1999)], para.89.

On 1953 *Lauritzen v. Larsen* Judgment [345 US 571; 47 AJIL 711 (1953)], see *IMCO* Pleadings, 368 [Norway, 29 April 1960]; *M/V Saiga* Separate Os Nelson, Anderson, n.2 [38 ILM 1323 (1999)]. The 1953 Judgment was, in turn, relied upon in:

1961/3 *Ingres Steamship Co. v. International Maritime Workers' Union (The Nassau, The Victoria)* Judgments [(1961) II App. Div. 2d 177, 202 N.Y.S. 2d 692, on appeal (Ct. App. 1961), 10 N.Y. 2d 218, 219 N.Y.S. 2d 21, 176 N.E. 2d 719; 1 ILM 58 (1962); 372 US 24 (1963); 34 ILR 66; 39 BYIL 245-254 (1963)].

On 1963 *McCulloch v. Sociedad Nacional de Marineros de Honduras (The Empresa)* Judgment, named *The Empresa* on account of the two cases argued, decided and reported with it, i.e., *McLeod v. Empresa Hondurena de Vapores* and *National Maritime Union v. Empresa Hondurena de Vapores* [372 US 10; 34 ILR 51; 57 AJIL 659 (1963); 39 BYIL 1963, 245-254 (1963)], see *Barcelona Traction (Second Phase)* Separate O. Jessup, ICJ Rep. 1970, 187-188 n.2. See also *Sociedad Nacional de Marineros de Honduras v. McCulloch* [(D.D.C. 1962) 201 F.Supp. 82]; *Empresa Hondurena de Vapores v. McLeod* [(S.D.N.Y. 1961) 200 F.Supp. 484, on appeal (2nd Cir. 1962) 300 F 2d 222; 57 AJIL 134 (1963)].

Status of Ships/Criminal Jurisdiction

1958 HSC, Articles 6(1) and 11; 1982 LOSC, Articles 92(1) and 97:

France v. Turkey SS Lotus Judgment, PCIJ Series A, No.10 (1927), President H.M. Huber's casting vote, Dissent Loder, 38-39, Dissent Weiss, 46-49, Dissent Lord Finlay, 51-55, Dissent Nyholm, 62-63, Dissent Moore 69-89, Dissent Altamira, 97, 102, 106.

The *Lotus* ruling in favour of Turkey by application of the principle of objective territorial jurisdiction (Judgment, 18-19) was based, *inter alia*, on the Court's conclusion that the existence of a rule of customary international law establishing the exclusive jurisdiction of the flag state has not been conclusively proved. None of precedents relied upon by France, including the 1897 *UK/Netherlands The Costa Rica Packet* Award of Frederic Martens (Russia) [No.188/Stuyt], related to offences affecting two ships flying the flags of two different states, whereas in many instances a state has claimed a right to

prosecute for an offence committed on board a foreign ship, which it regarded as punishable under its legislation (*SS Lotus* Judgment, 26). Nor did the Court accept the French contention that the flag state jurisdiction was particularly applicable to collision cases. The Court found the decisions of the domestic tribunals inconclusive. The pronouncements in favour of the exclusive flag state jurisdiction in the celebrated 1876 *R. v. Keyn* (*The Franconia, The Strathclyde*) Judgment of Lord Chief Justice Cockburn [L.R. 2 Ex.D. 63; 13 Cox C.C. 403; Simmonds/No.37; the 1877 *Harris v. Owners of the Steamship Franconia*, 2 C.P.D. 173; Simmonds/No.38] and 1885 *The Ortigia, The Oncle Joseph* [1882 Court of Livourne, as confirmed by Court of Florence, as overruled by Court of Aix; Clunet 1885, 286; Sirey 1887, 2, 217] cases were opposed by 1882 *The Ortigia, The Oncle Joseph* and 1914 *The Ekbatana, The West Hinder* [Court of Bruges; Clunet 1914, 1328] decisions, whereas *Franconia*'s finding concerning the localization of an offence was abandoned in the 1884 *R. v. Nillins* [53 L.J. 157] and 1923 *R. v. Godfrey* [L.R. 1923, I K.B. 24] decisions (*SS Lotus* Judgment, 28-30).

On fiction that a ship is a floating part of the state territory, see *SS Lotus* PCIJ Series A, No.10, 25 – Judgment, 25, Dissent Weiss, 45-46; *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 77 [Agent Basdevant, 3 Aug 1927], 136 [Agent Bey, 8 Aug 1927], 264-266 [France's Counter-Memorial], 310 [Turkey's Counter-Memorial]; *IMCO* Pleadings, 45 [Liberia], quoting 1876 *The Franconia* [L.R. 2 Ex.D.63, at 161]; *Aegean Sea* Pleadings, 442 [Counsel O'Connell, 16 Oct 1978]; *Spain v. Canada (Jurisdiction)* Dissent Torres Bernardez, ICJ Rep. 1998, 665, para.220 <<http://www.icj-cij.org>>.

For survey of the relevant case law, see especially the *Lotus* Dissent of Judge Moore [who was the author of the magnificent *History and Digest of International Arbitrations* Vols I-VI 1898]; *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 44-87 [Agent Basdevant, 2 and 3 Aug 1927], 103-136 [Agent Bey, 6 and 8 Aug], 137-164 [Basdevant, 9 Aug 1927], 173-213 [France's Memorial], 245-283 [France's Counter-Memorial], 287-349 [Turkey's Counter-Memorial].

The *Lotus* decision was reversed by the Brussels International Convention for the Unification of Certain Rules Relating to Penal Jurisdiction in Matters of Collision of Other Incidents of Navigation of 10 May 1952 [in force: 20 November 1955, 439 UNTS 233; cf. *IMCO* Pleadings, 52, 93 (Liberia)] and by both HSC and LOSC. Cf. *ILC Yearbook* 1956-II, 281; Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 65-66 (Oxford 1999).

But the *Lotus* pronouncement that "vessels on the high seas are subject to no authority except that of the State whose flag they fly" (Judgment, 25), as recognized by all six dissenting Judges, and as reflected in the *Corfu Channel (Merits)* Judgment [ICJ Rep. 1949, 28-29], was codified in Article 6(1) of the 1958 HSC, as restated in Article 92(1) of the 1982 LOSC. For reliance on this

Lotus pronouncement, see *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 463 [UK Reply]; *IMCO* Pleadings, 44-46 [Liberia], 132-141 [USA], 179, 182-183 [Panama], 256 [India], 317 [P, 27 April 1960]; *Spain v. Canada (Jurisdiction)* Dissent Torres Bernardez, ICJ Rep. 1998, 609, 683, paras 74 and 273; Pleadings, 488 [Agent Pastor Ridruejo, 10 June 1998]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.19.

See also *Access To, Or Anchorage In, The Port of Danzig, of Polish War Vessels* Pleadings, PCIJ Series C, No.55, 231-232 [Agent Williams, 9 Nov 1931]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I. 386 [Norway's Counter-Memorial], Vol.II, 412, 426, 460-463 [UK Reply]; *Fisheries Jurisdiction* Pleadings (UK), 378 [Memorial (Merits)], (FRG), 212 [Memorial (Merits)]; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 239, Declaration President Bedjaoui, 270-271, Separate O. Guillaume, 291, Dissents Shahabuddeen, 390-396, 409, 426, Weeramantry, 494-496.

Spain v. Canada Fisheries Jurisdiction (Jurisdiction) Judgment, President S.M. Schwebel, ICJ Rep. 1998, 432 <<http://www.icj-cij.org>>; *Congo v. Belgium Arrest Warrant of 11 April 2000* Separate O. President G. Guillaume, paras 4, 13-15, ICJ Rep. 2002 (in press), Dissent Oda, para. 12, Joint Separate O. Higgins, Kooymans, Buergenthal, paras 49, 54, Separate O. Bula-Bula, para. 49, Dissent van den Wyngaert, paras 13, 48-51, 56, 76 <<http://www.icj-cij.org>>.

Definition of Ships

Great Belt (Provisional Measures) Order, ICJ Rep. 1991, 17-18; Hearings, CR 91/9, 18-19, 22-23, 25 [Agent Gronberg, 1 July 1991], 33 [Counsel Sir Ian Sinclair], CR 91/10, 13-17 [Co-Agent Koskenniemi], CR 91/11, 14-15 [Agent Lehmann, 2 July], 57-59 [Counsel de Arechaga], 67-80 [Counsel Fergo], CR 91/13, 17 [Agent Gronberg, 4 July], 32 [Counsel Sinclair], 68 [Judge Schwebel's Questions], CR 91/14, 8-11 [Agent Gronberg's Reply to Schwebel, 5 July 1991], 19-31 [Agent Magid], 31-33 [his Reply to Schwebel], Pleadings, 4, 8-9 [Finland's Application, paras 6, 27-30, 33], 156 [Agent Fergo, 2 July 1991], 236, 341-364 [Finland's Memorial], 589-602 [Denmark's Counter-Memorial]; *Spain v. Canada Fisheries (Jurisdiction)* Judgment, ICJ Rep. 1998, 463-465, paras 75-77.

The 1921 *In the Matter of the Cessions by Germany to France Under Article 357 of the Treaty of Versailles* Award of Sole Arbitrator Walker D. Hines [17 AJIL 786, 796 (1923)] asserted that a barge with a crane upon it was within the meaning of the term vessel under Article 357 of that Treaty.

On 1876 *R. v. Keyn (The Franconia, The Strathclyde)* Judgment, see Internal Waters, Territorial Sea and Baselines *supra*.

On 1897 *UK/Netherlands The Costa Rica Packet* Award of Frederic Martens (Russia) [No.188/Stuyt], see *SS Lotus* PCIJ Series A, No.10 – Judgment, 7 and 26, Dissent Weiss, 46-47, Dissent Moore 83-84, Dissent Altamira 97; *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 63, 66-67, 71, 75, 77, 84 [Agent Basdevant, 2 and 3 Aug 1927], 118, 123-125 [Agent Bey, 6 and 8 Aug], 154, 155, 160-161, 162, 163-164 [Basdevant, 9 Aug], 168-169 [Bey, 10 Aug 1927], 190, 203-205, 208, 211, 212 [France's Memorial], 248, 251, 255, 269-270, 280, 281 [France's Counter-Memorial], 309, 315-316 [Turkey's Counter-Memorial], 325, 345 [Observations of Diena], 360-362 [Consultation of Diena], 379, 385-386 [Consultation of Fedozzi], 417 [Consultation of Mercier]; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 346 [Norway's Counter-Memorial].

On 1915 *H.M.S. Hawke* Judgment of Lord Justice Vaughan Williams [28 Times L.R. 319 (P.) 49 (H.L.)], see *Ambatielos* Pleadings, 20 [Greece's Memorial], 166 [UK Counter-Memorial].

United Nations Flag

1958 HSC, Article 7; 1982 LOSC, Article 93:

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Individual O. Alvarez, 41, 46-47, Dissent Azevedo, 91.

Salvage/Assistance

1958 HSC, Article 12; 1982 LOSC, Article 98:

SS Lotus PCIJ Series A, No.10 (1927) – Judgment, 10, Dissent Moore, 69, 85; *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 214, 269, 282 [Norway's Counter-Memorial], No.64, 1546 [Annex], No.66, 3149-3150 [Counsel Sunde, 10 Dec 1932], No.67, 3588 [Counsel Rygh, 3 Feb 1933]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 67-69, Individual Os Basdevant, 82, Carneiro, 88; *IMCO* Pleadings, 113 [Liberia]; *Western Sahara* Advisory Opinion, ICJ Rep. 1975, 51-53; *Gulf of Maine* Judgment, ICJ Rep. 1984, 340-341; Pleadings, Vol.II, 46, 114 [US Memorial], Vol.III, 19, 166-167, 225, 381-385 [Canada's Counter-Memorial], Vol.IV, 137 [US Counter-Memorial], Vol.V, 36, 78 [Canada's Reply], Vol.VI, 139-140 [Counsel Bowett, 5 April 1984], 278-279 [Counsel Stevenson, 12 April 1984], Vol.VIII, 27 [Fig.13], 104 [Fig.16]; *Great Belt* Pleadings, 353 [Finland's Memorial], 529-530 [Denmark's Counter-Memorial]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), para.101; Oral Hearings, CR 2000/13, 15-16, 42 [Counsel Volterra, 13 June 2000], CR 2000/17, 36 [15 June 2000] <<http://www.icj-cij.org>>.

1977 *Anglo/French Decision* [18 ILM 397 (1979)], paras 163, 175; 1998 *Eritrea/Yemen Territorial Sovereignty (Phase I) Award*, paras 284-286, 317, 336 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

On International Convention on Maritime Search and Rescue, London, 1 November 1979 [in force: 22 June 1985, 1986 UKTS 59], see *Gulf of Maine Pleadings*, Vol.III, 167, 384 [Canada's Counter-Memorial]; *Great Belt Pleadings*, 353 [Finland's Memorial].

Piracy

1958 HSC, Articles 14-22; 1982 LOSC, Articles 100-107 and 110(1)(a):

SS Lotus PCIJ Series A, No.10 (1927) – Dissent Lord Finlay, 51, Dissent Moore, 69, 70-71; *SS Lotus Pleadings*, PCIJ Series C, No.13-II, 79 [Agent Basdevant, 3 Aug 1927], 153, 157 [Basdevant, 9 Aug 1927], 198 [France's Memorial], 377-378 [Consultation Fedozzi], 411-412 [Consultation Mercier]; *Legal Status of Eastern Greenland* PCIJ Series A/B, No.53 (1933) – Dissent Vogt, 108; *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 116 [Norway's Counter-Memorial], No.63, 768 [Denmark's Reply], 1222 [Norway's Rejoinder]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Dissent Azevedo, 98; *Corfu Pleadings*, Vol.II, 282-283 [UK Reply], Vol.IV, 543 [Agent Sir Eric Beckett, 18 Jan 1949]; *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 241 [Norway's Counter-Memorial]; *Minquiers and Ecrehos Pleadings*, Vol.I, 35-36 [UK Memorial]; *North Sea Pleadings*, Vol.II, 242 [Reply by Counsel Sir Humphrey Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction)* Separate Op Fitzmaurice, ICJ Rep. 1973, 25, 69; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 560-561, 565, Separate Op. Bernardez, 700-701; *Spain v. Canada (Jurisdiction)* Dissent Bernardez, ICJ Rep. 1998, 715, para.371; *Pleadings*, 47, 49, 125-126 [Spain's Memorial], 270 [Canada's Counter-Memorial], *Pleadings*, 434 [Counsel Rodriguez, 9 June 1998], 467 [Counsel Highet, 10 June], 623 [Counsel Willis, 17 June 1998]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 38, 40, 83, Dissent Torres Bernardez, paras 90-91, 93; *Congo v. Belgium Arrest Warrant of 11 April 2000* Separate Op. President G. Guillaume, paras 5, 16, ICJ Rep. 2002 (in press), Dissent Oda, para. 12, Declaration Ranjeva, para. 6, Joint Separate Op. Higgins, Kooymans, Buergenthal, paras 39, 60 <<http://www.icj-cij.org>>.

1998 *Eritrea/Yemen (Phase I) Award*, para.15 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>]; *M/V Saiga Judgment*, [38 ILM 1323 (1999)], para.105.

On 1934 *In Re Piracy Jure Gentium (The S.S. Shui Chow, The S.S. Hang Sang, The H.M.S. Somme)* Judgment [A.C. 586; 29 AJIL 140, 508 (1935)] Judgment, see *Anglo/Norwegian Fisheries Pleadings*, Vol.II, 431 [UK Reply].

On 1615, 1616, 1617, 1692, 1811 and 1817 Judgments and 1950 Inquests, see *infra*.

See also Peaceful Uses of the Sea, Maritime Terrorism *infra*.

Slaves

1958 HSC Articles 13 and 22(1)(b); 1982 LOSC, Articles 99 and 110(1)(b):

SS Lotus Pleadings, PCIJ Series C, No.13-II, 133 [Agent Bey, 8 Aug 1927], 162 [Agent Basdevant, 9 Aug 1927], 206 [France's Memorial], 377 [Consultation Fedozzi]; *Corfu Channel* Pleadings, Vol.IV, 543 [Agent Sir Eric Beckett, 18 Jan 1949]; *Fisheries Jurisdiction (Jurisdiction)* Separate Op Fitzmaurice, ICJ Rep. 1973, 25, 69; *Spain v. Canada* Dissent Bernardez, ICJ Rep. 1998, 715, para. 371; Pleadings, 467 [Counsel Highet, 10 June 1998]; *Congo v. Belgium Arrest Warrant of 11 April 2000* Separate O. President Guillaume, para.5, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>.

On Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, Geneva, 7 September 1956 [in force: 30 April 1957, 266 UNTS 3], see *North Sea* Dissent Lachs, ICJ Rep. 1969, 224.

1998 *Eritrea/Yemen (Phase I)* Award, para.15 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

Illicit Drug Trafficking

1982 LOSC, Article 108

Spain v. Canada (Jurisdiction) Dissent Torres Bernardez, ICJ Rep. 1998, 715, para. 371; *Congo v. Belgium Arrest Warrant of 11 April 2000* Separate O. President Guillaume, paras 5-6, 8, ICJ Rep. 2002 (in press), Joint Separate O. Higgins, Kooymans, Buergenthal, para. 33 <<http://www.icj-cij.org>>

On UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 20 December 1988 [in force: 11 November 1990, 1582 UNTS 96; 28 ILM 493 (1989)], see ; *Congo v. Belgium* Separate O. President Guillaume, para. 8, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>

Unauthorized Broadcasting

1982 LOSC, Articles 109 and 110(1)(c):

Spain v. Canada (Jurisdiction) Dissent Bernardez, para.371, ICJ Rep. 1998, 715, para.371.

On European Agreement for the Prevention of Broadcasts Transmitted from Stations Outside National Territories, Strasbourg, 22 January 1965 [in force: 19

October 1967, 634 UNTS 239], see *Aegean Sea Pleadings*, 438 [Counsel Economides, 16 Oct 1978].

On 1964 *L'île de la REM* [12 *Netherlands ILR* 202 (1965)], see *Aegean Sea Pleadings*, 258 [Greece's Memorial (Jurisd.)], 457-458 [Counsel O'Connell, 16 Oct 1978].

1998 *Eritrea/Yemen (Phase I) Award*, para.333 <<http://www.pca-cpa.org>>.

Hot Pursuit

1930 Hague Draft, Article 11; 1958 HSC, Article 23; 1982 LOSC, Article 111:

SS Lotus PCIJ Series A, No.10 (1927) – Dissent Moore, 80-81, 83; *Corfu Channel (Merits)* Dissent Azevedo, ICJ Rep. 1949, 108; *Pleadings*, Vol.II, 283 [UK Reply]; *Fisheries Jurisdiction (Jurisdiction)* Separate Op Fitzmaurice, ICJ Rep. 1973, 25, 69.

1997 *M/V Saiga (Prompt Release)* Judgment [37 ILM 360 (1998)], paras 54, 60-61, 70, Dissents President Mensah, Anderson, Joint Dissent; *M/V Saiga (Provisional Measures)* Separate O. Laing [37 ILM 1218 (1998)], para.19; *M/V Saiga* Judgment, [38 ILM 1323 (1999)], paras 28-29, 91-92, 97, 105, 139-152, 167-175, Separate O. Anderson.

See also *Contiguous Zone supra*.

* * *

Greece v. United Kingdom Ambatielos (Preliminary Objection) Judgment, Vice-President J.G. Guerrero, Acting President concurring, ICJ Rep. 1952, 28, Individual O. Levi Carneiro, 48, Individual O. Spiropoulos, 55, Dissent President Sir Arnold McNair, 58, Dissents Basdevant, 66, Zoricic, 74, Klaestad, 80, Hsu Mo, 85, *Greece v. UK (Merits: Obligation to Arbitrate)* Judgment, ICJ Rep. 1953, 10, Dissent President McNair and Judges Basdevant, Klaestad and Read, 25; Orders, ICJ Rep. 1951, 11, 103, 113, 1952, 7, 16, 90.

The dispute reflected some important aspects of the question of a breach by a state of a contract with an alien concerning a sale of the ships. The proceedings involved the claim relating to the rights of a Greek shipowner, Nicolas Eustache Ambatielos, alleged to have suffered considerable loss in consequence of a contract which he concluded on 17 July 1919 with the British Government (represented by Major Bryan Laing of the Ministry of Shipping) for the purchase of nine steamships which were then under construction at Hong Kong and Shanghai, and in consequence of certain adverse judicial decisions in the English Courts in connection therewith. The Court's decisions were limited to the procedural questions of the arbitrability of the dispute and the jurisdiction of the Court to decide the issue, while the merits of the claim itself were settled by the

1956 *Greece v. UK Ambatielos Claim Award*, Separate O. President R.J. Alfaro, Dissent Spiropoulos [RIAA XII, 83; 23 ILR 306 and 24 ILR 291; No.422/Stuyt].

Cf. *Oil Platforms (Preliminary Objection)* Separate Os Shahabuddeen, ICJ Rep. 1996, 824-832, Higgins, 850-852, 856, Rigaux, 869; 1997 *M/V Saiga (Prompt Release)* Judgment [37 ILM 360 (1998)], para.51, Dissenting Opinions President Mensah, para.5, Anderson, para.4.

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On 1615, 1616, 1617 three shipwreck cases at Minquiers of the Jersey Court [*Minquiers and Ecrehos Pleadings*, Vol.I, 169-170], see *Minquiers and Ecrehos Judgment*, ICJ Rep. 1953, 67; *Pleadings*, Vol.I, 88 [UK Memorial], 398 [France's Counter-Memorial], 533 [UK Reply]; Vol.II 335-336 [Counsel Harrison, 5 Oct 1953].

On 1692 decision of Royal Court of Jersey on shipwreck at Minquiers [*Minquiers and Ecrehos Pleadings*, Vol.I, 170-172], see *Minquiers and Ecrehos Judgment*, ICJ Rep. 1953, 68; *Pleadings*, Vol.I, 89 [UK Memorial], 399 [France's Counter-Memorial], 534 [UK Reply]; Vol.II, 336 [Counsel Harrison, 5 Oct 1953].

On 1811 decision of Royal Court of Jersey on shipwreck at Minquiers [*Minquiers and Ecrehos Pleadings*, Vol.I, 634-635], see *Minquiers and Ecrehos Judgment*, ICJ Rep. 1953, 69; *Pleadings*, Vol.II, 183, 334, 336 [Counsel Harrison, 24 Sep and 5 Oct 1953].

On 1817 decision of Royal Court of Jersey on shipwreck at Minquiers [*Minquiers and Ecrehos Pleadings*, Vol.I, 636-637], see *Minquiers and Ecrehos Judgment*, ICJ Rep. 1953, 69; *Pleadings*, Vol.II, 183, 336 [Counsel Harrison, 24 Sep and 5 Oct 1953].

On 1850 *The Superb* Inquests [*Minquiers and Ecrehos Pleadings*, Vol.I, 642-644], see *Minquiers and Ecrehos Pleadings*, Vol.II, 274-275 [Agent Gros, 30 Sep 1953], 336 [Counsel Harrison, 5 Oct], 405 [Gros, 8 Oct 1953].

On 1863 *The Esmeralda* shipwreck recovery, see *Western Sahara Advisory Opinion*, ICJ Rep. 1975, 51-53.

On 1872 *UK/USA The Alabama (The Kaersage)* Award [No.94/Stuyt], see *Nottebohm (Preliminary Objection)* Judgment, ICJ Rep. 1953, 119, as reaffirmed by *Guinea-Bissau v. Senegal Arbitral Award* Judgment, ICJ Rep. 1991, 68-69, Separate O. Shahabuddeen, 109. See also *Corfu Channel (Merits)* Dissent Azevedo, ICJ Rep. 1949, 96; *Anglo/Norwegian Fisheries* Dissent Sir Arnold McNair, ICJ Rep. 1951, 181; the *Rights of Nationals of the USA in Morocco Pleadings*, Vol.II, 147 [Agent Gros]; *Interhandel (Preliminary Objections)* Dissent Armand-Ugon, ICJ Rep. 1959, 92; *Fisheries Jurisdiction Pleadings* (UK), 249 [Memorial]; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Provisional Measures)* Separate O. Ajibola, ICJ Rep. 1993, 396; *East Timor* Dissent Weeramantry, ICJ Rep. 1995,

158-159; *Spain v. Canada* Oral Hearings, CR 98/10 [trans.], 50 [Counsel Dupuy, 10 June 1998].

On 1906 *Mortensen v. Peters (The Niobe; Moray Firth)* Judgment, see Fisheries *infra*.

On 1912 *Titanic* disaster [9 AJIL 336 (1915)], see *IMCO* Pleadings, 113 [Liberia]. Cf. Protection and Preservation of the Marine Environment – Ice-Covered Areas, North Atlantic Ice Patrol drawn in a follow-up to this disaster under the 1914 SOLAS.

On 1913 *France/Italy The Carthage and The Manouba* Award [RIAA XI, 450, 464; Nos 306-307/Stuyt], see *South West Africa (Preliminary Objections)* Separate O. Jessup, ICJ Rep. 1962, 425; *Nuclear Tests* Pleadings (Australia), 327 [Memorial]; 1986 *Rainbow Warrior* Memorandum of France and 1990 *Rainbow Warrior* Award [see Access to and Jurisdiction and Treatment in Ports *supra*].

On 1922 *Norway/USA Norwegian Shipowners' Claim* Award [RIAA I, 339; 1 ILR 414; 16 AJIL 81 and Suppl. 16 (1922); 17 AJIL 287, 362 (1923); No.339/Stuyt; PCA 1999, 110], see *Anglo/Norwegian Fisheries* Pleadings, I 383 [Norway's Counter-Memorial], II 428 [UK Reply]; 1969 *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 134 n.1, 135 n.2; *Aegean Sea* Pleadings, 203 n.1 [Greece's Memorial (Jurisd.)]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 225.

On 1928 *Portugal v. Germany Naulilaa* Award [RIAA II, 1012; No.325/Stuyt], see *Spain v. Canada (Jurisdiction)* Dissent Torres Bernardez, ICJ Rep. 1998, 731, para.420.

On 1934 *Finland v. UK Finnish Ships* Award, see Settlement of Disputes, Exhaustion of Local Remedies *infra*.

On 1956 *Greece v. UK Ambatielos Claim* Award, see Settlement of Disputes, Exhaustion of Local Remedies *infra*.

On 1970 *Ministre d'Etat* Judgment, see Continental Shelf *supra*.

On 1978 *Treasure Salvors, Inc. v. Unidentified Wrecked and Abandoned Sailing Vessel (The Nuestra Senora de Atocha)* Judgment [569 F. (2d) 330; 72 AJIL 664 (1978)], see *Aegean Sea* Pleadings, 457 [Counsel O'Connell, 16 Oct 1978].

See also jurisprudence quoted in this Section *supra*.

See also Internal Waters, Territorial Sea and Baselines – FCN Treaties; Exclusive Economic Zone – *Jus Communicationis* and Equality of Uses Principle, *supra*; Fisheries – Straddling/Highly Migratory Stocks; and Peaceful Uses of the Sea *infra*.

IMMUNITIES OF WARSHIPS

**1930 HAGUE DRAFT, ARTICLES 12-13; 1958 TSC, ARTICLES 22-23;
1982 LOSC, PART II, ARTICLE 32
1958 HSC, ARTICLE 8
1982 LOSC, PART VII, ARTICLE 95, AND PART XII, ARTICLE 236**

SS Wimbledon PCIJ Series A, No.1 (1923) – Judgment, 25; *SS Wimbledon* Pleadings, PCIJ Series C, No.3-Additional Volume, 154 [Germany's Rejoinder]; *SS Lotus* PCIJ Series A, No.10 (1927) – Judgment, 25, Dissent Moore, 87; *Access To, Or Anchorage In, The Port of Danzig, of Polish War Vessels* PCIJ Series A/B, No.43 (1931) – Advisory Opinion, 141; *Corfu Channel* – see Straits Used for International Navigation *supra*; *Oil Platforms (Preliminary Objection)* Dissent Vice-President Schwebel, ICJ Rep. 1996, 803, 874 (*Counter-Claims*) Order, President Schwebel concurring, ICJ Rep. 1998, 201-202; Oral Hearings, CR 96/12, 25-39 [Cdr Neubauer, 16 Sep 1996].

1999 *US v. Havenschap Delfzijl/Eemshaven (The Cape May)* Judgment of the Netherlands Supreme Court, 47 Netherlands ILR 359 (2000)

FISHERIES

**1958 TSC; 1958 HSC; 1958 HSFC
1982 LOSC, PARTS II, IV, V AND VII, AND ANNEX I
1992 UNCED RIO AGENDA 21, CHAPTER 17
1995 SSA**

Relevant Jurisprudence

Legal Status of the Southeastern Territory of Greenland PCIJ Series A/B, No.48 (1932) – Order (joining two suits brought by Norway and Denmark), 268, President M. Adatci; (*Request for the Indication of Interim Measures of Protection*) Order, 277, President Adatci; PCIJ Series A/B, No.55 (1933) – (*Discontinuance*) Order, 157, President Adatci; Orders of 1932/1933, *Southeastern Greenland* Pleadings, PCIJ Series C, No.69, 74, 76.

The dispute concerned territorial sovereignty, in particular the validity of a Royal Decree of Norway of 12 July 1932, which involved hunting, fishing and sealing activities of Eskimos and foreigners in Southeastern Greenland. See PCIJ Series A/B, No. 48 (1932) and No.55 (1933); and *Southeastern Greenland* Pleadings, PCIJ Series C, No.69, 20-22 [Counsel Rygh, 28 July 1932], 42-43 [Agent Steglich-Petersen, 28 July 1932].

After the delivery of the *Legal Status of Eastern Greenland* Judgment on 5 April 1933, Norway revoked on 7 April 1933 its 1932 Decree [*Southeastern Greenland* Pleadings, PCIJ Series C, No.69, 71] and the case was discontinued.

Denmark v. Norway Legal Status of Eastern Greenland PCIJ Series A/B, No.53 (1933) – Judgment, 22, President M. Adatci concurring, Dissent Anzilotti, 76, Observations Schücking and Wang, 96, Dissent Vogt, 97.

The dispute concerned territorial sovereignty, in particular the validity of a Royal Proclamation of Norway of 10 July 1931 (as preceded by the verbal Ihlen Declaration of 22 July 1919), which involved whaling, sealing, fishing, hunting and research activities in Eastern Greenland. See *Eastern Greenland* Judgment, 38-40, 42-43, 50, 62-63, 72, Dissent Anzilotti, 92, 93, Dissent Vogt, 103, 108-110; *Eastern Greenland* Pleadings, PCIJ Series C, No.62, 16, 21-23, 31-37, 51-61 [Denmark's Memorial], 174-355, 456-457 [Norway's Counter-Memorial], No.63, 685-900 [Denmark's Reply], 1038-1109, 1295-1298 [Norway's Rejoinder], No.66, 2717, 2727-2732, 2768, 2776-2781 [Agent Steglich-Petersen, 24 and 26 Nov 1932], 2940-2942, 2948-2954 [Counsel Rygh, 3 and 5 Dec 1932], No.67, 3303, 3319 [Steglich-Petersen, 16 Jan 1933], 3570-3575 [Rygh, 3 Feb 1933], 3586-3589 [Rygh].

Two days after the delivery of the *Legal Status of Eastern Greenland* Judgment, Norway, by a new Proclamation of 7 April 1933, revoked the Proclamation of 10 July 1931, annulling thereby its occupation of Eirik Raudes Land [28 AJIL 8 (1934)].

Corfu Channel Pleadings, Vol.I, 22 [UK Memorial], 161 [Albania's Counter-Memorial], Vol.II, 262, 283 [UK Reply], Vol.IV, 543 [Agent Sir Eric Beckett, 18 Jan 1949].

Anglo/Norwegian Fisheries Judgment – see Internal Waters, Territorial Sea and Baselines, Historic Titles, Straight Baselines, The Right and Meaning of Innocent Passage, *supra*.

United Kingdom/France Minquiers and Ecrehos Judgment [unanimous], ICJ Rep. 1953, 47, Vice-President J.G. Guerrero, Acting President, Declaration Alvarez, 72, Separate Os Basdevant, 74, Carneiro, 85; Orders, ICJ Rep. 1952, 4, 25, 173, 1953, 4.

The dispute concerned territorial sovereignty over the islets and rocks (in so far as they were capable of appropriation) of the Minquiers and Ecrehos groups, lying between the English Channel Island of Jersey and the northern French coast. Underlying the dispute were interests of the parties with respect to valuable oyster, lobster, ormer, conger and prawn fisheries in the area, as well as other economic concerns, including French plans to generate electricity from the

tidal power. While concluding their *compromis* referring a case to the Court, the parties agreed in advance on the modalities for the execution of the Court's Judgment as laid down in the separate UK/France Agreement (with Two Annexed Charts) Regarding Rights of Fishery in Areas of the Ecrehos and Minquiers of 30 January 1951, which provided for their equal fisheries rights, and which was ratified simultaneously with their *compromis* on 24 September 1951 [121 UNTS 97]. Cf. *Minquiers and Ecrehos* Individual O. Carneiro, ICJ Rep. 1953, 109; Pleadings, Vol.I, 49-50 [UK Memorial], 435-436, 437 [UK Reply], Vol.II, 62-63, 66, 76, 347 [Counsel Fitzmaurice, 18 and 19 Sep and 5 Oct 1953]; and on the 1839 UK/France Convention, see *infra*.

The party held by the Court to have sovereignty – which turned to be Britain – acquired, under the 1951 Agreement, the right to grant fishing concessions within three zones designated solely as fishery limits of maximum half a mile radius, as shown on the two charts. In direct application of the 1953 *Minquiers and Ecrehos* Judgment, the French Cour de Cassation, in 1959 *James Buchanan & Co. v. Société Hanappier-Peyrelongue et Cie and Another* Judgment [39 ILR 425 (Cass. civ. com., 20 October 1959)], although finding the islands “outside the territorial waters of the UK,” accepted without question that the islands belonged to Britain.

Subsequently, Article 10 of the European Fisheries Convention of 2 March 1964 [*infra*] (which sanctioned a 12-mile fisheries zone) provided that nothing in this Convention shall prevent the maintenance of a special fisheries regime, *inter alia*, as between France and the United Kingdom “in respect of Granville Bay and the Minquiers and the Ecrehos.” Under its 1964 Fishery Limits Act implementing the 1964 Convention, the United Kingdom, having at that time a 3-mile TS, claimed specific 12-mile limits around a number of islets, including the Ecrehos and Minquiers. The 1964 Act was largely repealed by the Fishery Limits Act of 22 December 1976. The 1977 *Anglo/French Continental Shelf Delimitation* Decision [18 ILM 397, 463 (1979); 54 ILR 139, 213; RIAA XVIII, 3, 271; No.437/Stuyt; Charney/ASIL Report No.9-3 (Anderson); Equitable Maritime Boundary Delimitation *supra*], while noting a 12-mile TS possessed by France since 1971 (including off Normandy and Brittany), also referred to the British submission made before the Court of Arbitration that the United Kingdom already had a 12-mile fishery limit around the Channel Islands, established in conformity with the 1964 Convention (para.14; see also paras 13-22). The United Kingdom established its 12-mile TS under the Territorial Sea Act of 1 October 1987. On occasion of concluding on 16 August 1994 of the UK/France Agreement on Fishing Rights in Waters Between Guernsey and French Coasts, Britain stated that the Ecrehos, which were the subject of recent action by French fishermen, were within the jurisdiction of Jersey [in force: 12 September 1995, 65 *British YIL* 649-651 (1994); 1892 UNTS 344]. Neither their status nor fishing

rights around Ecrohos were, according to Britain, in any way affected by the 1994 Agreement.

United Kingdom v. Argentina and United Kingdom v. Chile Antarctica Orders, ICJ Rep. 1956, 12 and 15, President G.H. Hackworth.

The two parallel cases instituted by British Applications against Argentina and against Chile concerned territorial sovereignty over islands and lands forming part of the Falkland Islands (Malvinas) Dependencies lying in the Antarctica and sub-Antarctica, referred to presently as the Southern Ocean. They included with respect to Argentina the then all Dependencies, i.e., the South Georgia, South Orkney, South Shetland and South Sandwich Islands and the Graham Land (Palmer Peninsula and Palmer Archipelago), and with respect to Chile – the South Shetlands and Graham Land. The important stimulus for exercise of “the long-continued and peaceful display of British sovereignty” in these Dependencies was provided by the development of whaling, sealing and scientific exploration from 1892 onwards. See *Antarctica Pleadings*, 13-21, 24, 27, 45-47, 53-60, 62-66, 68 [UK Applications].

The two *Antarctica* cases were but a diplomatic phase in a longstanding dispute [Sir Humphrey Waldock, 25 *British YIL* 311-353 (1948)]. Previously, the United Kingdom proposed in its two Notes of 17 December 1947 to submit the dispute to the Court, but in their Notes of 28 and 31 January 1948, Argentina and Chile declined to do so [*Antarctica Pleadings*, 35, 72]. Nor did the two states accept the offer made to this effect in the next British Notes of 1948, 1951 and 1953 [*id.* 35, 73], or that made in two British Notes of 21 December 1954 proposing a referral of the dispute to an *ad hoc* Arbitral Tribunal [*id.*]. In view of the present confirmation by both Argentina and Chile, in their Letters of 1 and 2 August 1955, of their refusal to refer the dispute to the ICJ [*id.* 89-93, 94-96], as regretted in a Letter of British Agent Sir Gerald Fitzmaurice of 31 August 1955 [*id.* 97-98; ICJ Rep. 1956, 13-14, 16-17], the Court ordered that both *Antarctica* cases be removed from its General List. The conflicting claims to the Falkland Islands (Malvinas) and South Georgia and South Sandwich Islands, have continued (as was anticipated in Sir Gerald’s Letter referring to “future acts”), with a varied intensity, during over four decades since the Applications were filed, against the background of the opening of the Antarctic Treaty System, evolution of modern concepts of the law of the sea, and other developments in the region.

For references to Falkland Dependencies, see also *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 390, 429, 502-504 [Norway’s Counter-Memorial], No.63, 778, 907, 909 [Denmark’s Reply], 1457 [Norway’s Reply], No.64, 1867-1869 [G. Hatt, *Terres Antarctiques*], No.65, 2355-2365, No.66, 3156-3159 [Counsel Sunde, 12 Dec 1932]; *North Sea Separate O.* Ammoun, ICJ

Rep. 1969, 104; *Libya/Malta Pleadings*, Vol.I, 446, 449 [Malta's Memorial]; *East Timor Oral Hearings*, CR 95/4, 34 [Counsel Higgins, 1 Feb 1995], CR 95/9, 72, 80-82 [Co-Agent Burmester, 8 Feb], CR 95/10, 56 [Counsel Staker, 9 Feb], CR 95/13, 14 [Counsel Higgins, 13 Feb], CR 95/14, 62 [Counsel Crawford, 16 Feb 1995]; *Qatar v. Bahrain (Merits) Oral Hearings*, CR 2000/18, 21-22 [Counsel Sinclair, 21 June 2000].

On 1902 *Argentina/Chile Southern Andes Boundary*, 1966 *Argentina/Chile Frontier*, 1977 *Argentina/Chile Beagle Channel* and 1994 *Argentina/Chile Laguna del Desierto Awards*, see Equitable Maritime Boundary Delimitation *supra*.

Fisheries Jurisdiction (Request for the Indication of Interim Measures of Protection) Orders, ICJ Rep. 1972, 12 [*UK v. Iceland*], 30 [*FRG v. Iceland*], President Sir Muhammad Zafrulla Khan concurring, Joint Declarations Vice-President Ammoun, Forster and Jiménez de Aréchaga, 18 and 36, Dissents Padilla Nervo, 20 and 37;

Orders (first pleadings to be addressed to the Court's jurisdiction), 181 [*UK v. Iceland*], 188 [*FRG v. Iceland*], Joint Dissents Bengzon and de Aréchaga, 184 and 191;

(*Jurisdiction*) Judgments, ICJ Rep. 1973, 3 [*UK v. Iceland*], 49 [*FRG v. Iceland*], Declarations President Zafrulla Khan, 22 and 66, Separate Os Sir Gerald Fitzmaurice, 24 and 68, Dissents Padilla Nervo, 36 and 81; Orders, 93 and 96;

(*Continuance of Interim Measures of Protection*) Orders, 302 [*UK v. Iceland*], 313 [*FRG v. Iceland*], President M. Lachs concurring, Declarations Ignacio-Pinto, 304 and 315, Dissents Gros, 306 and 317, Dissents Petrán, 310 and 318;

(*Merits*) Judgments, ICJ Rep. 1974, 3 [*UK v. Iceland*], 175 [*FRG v. Iceland*], Declarations President Lachs, 35 and 206, Declarations Nagendra Singh, 38 and 211, Separate O. and Declaration Dillard, 53 and 207, Joint Separate Os Forster, Bengzon, de Aréchaga, Nagendra Singh and Ruda, 45 and 217, Separate Os de Castro, 72 and 225, Separate Os Sir Humphrey Waldoock, 105 and 227, Declarations Ignacio-Pinto, 35 and 208, Dissents Gros, 125 and 234, Dissents Petrán, 150 and 240, Dissents Onyeama, 164 and 244.

After nearly all states spoke at the UNCLOS III in Caracas in favour of the 200-mile EEZ/EFZ, Iceland which one month prior to this session (and two months prior to the Court's Judgments) already proclaimed, under Law No.45 of 13 May 1974, its 200-mile EFZ, issued its new Regulations No.299 on the Fishery Limits of 15 July 1975, which prohibited all foreign fishing within this limit [UN Doc. ST/LEG/SER.B/18, 331 (1976); 14 ILM 1282 (1975)] and which followed inclusion of an EEZ into ISNT [*UNCLOS III Off. Rec.* Vol.IV, 152 (1975)]. Nevertheless, Iceland concluded on 28 November 1975 Fisheries

Agreements with the FRG and Belgium, permitting them to fish in its 200-mile EFZ [15 ILM 1, 43 (1976)].

After expiration on 13 November 1975 of the UK/Iceland Interim Agreement of 13 November 1973 [12 ILM 1315 (1973); cf. *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 307], Iceland was unable to renew it, what led to the most violent “Third Cod War”. Following no action taken by the UN Security Council [UN Doc. S/11907 (1975)] and failure of negotiations, the hostilities resumed in February 1976. Subsequently, Norway/Iceland Fisheries Agreement was concluded on 10 March 1976, while the UK was granted access to the Icelandic 200-mile EFZ under the Agreement of 1 June 1976 for only a phase-out period until December 1976 [15 ILM 875, 878 (1976)]. The EC Council’s Hague Resolution of 3 November 1976 provided for extension by member states of 200-mile EFZs from 1 January 1977 [15 ILM 1425 (1976); cf. Participation by International Organizations *infra*], as followed by legislation of then Twelve, including the UK and the FRG, to this effect.

1984 *Canada/USA Gulf of Maine* Judgment – see Equitable Maritime Boundary Delimitation *supra*; 1993 *Denmark v. Norway* Judgment – *id.*

Spain v. Canada Fisheries Jurisdiction (Jurisdiction) Judgment, ICJ Rep. 1998, 432, Separate O. of President S.M. Schwebel, 470, Separate Os Oda, 474, Koroma, 486, Kooymans, 489, Dissent Vice-President Weeramantry, 496, Dissents Bedjaoui, 516, Ranjeva, 553, Vereshchetin, 570, Torres Bernardez, 582; Orders, ICJ Rep. 1995, 87, 1996, 58 <<http://www.icj-cij.org>>.

Cf. *Legality of Use of Force (Provisional Measures)* Orders in the six cases with Belgium and the Netherlands, para.30, ICJ Rep. 1999, 135, 552, Canada and Portugal, para.29 at 269, 667, Spain and the UK, para.25 at 775, 835-836; *Pakistan v. India (Jurisdiction)* Judgment, President G. Guillaume, paras 38, 42, 51 and 55, ICJ Rep. 2000 (in press) <<http://www.icj-cij.org>>; *Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award, President S.M. Schwebel, para.48; Japan’s Memorial, paras 4-7, 99, A/NZ Reply, paras 49-51, Hearings, Vol.II [Counsel Burmester, 8 May 2000] <<http://www.worldbank.org/icsid>>.

The *Spain v. Canada* Judgment led to Canada’s ratification of the 1995 UN Fish Stocks Agreement [*infra*] on 3 August 1999 <<http://www.un.org/Depts/los>> and it also induced the parties and the European Community to elaborating specific dispute settlement procedures of the Northwest Atlantic Fisheries Organization. See Report of the NAFO Working Group on Dispute Settlement Procedures, Copenhagen, 29-31 May 2000, NAFO/GC Doc.00/4 (2000).

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1893 *UK/USA Behring Sea Fur Seal* Award, Arbitral Tribunal: Lord Hannen (UK), J. Thompson (UK), J.M. Harlan (USA), J.T. Morgan (USA), A. de Courcel (France), E. Visconti Venosta (Italy), Gregers Gram (Sweden); No.170/Stuyt; 1

AJIL 742 (1907); 6 AJIL 233 and Supp. 72, 162 (1912); 37 AJIL 562-585 (1943). See also *infra*.

1910 *UK/USA North Atlantic Coast Fisheries Award*, PCA/Arbitrators: President H. Lammasch, Jonkheer A.F. de Savornin Lohman, G. Gray, Sir Ch. Fitzpatrick, L.M. Drago; RIAA XI, 167; No.291/Stuyt; 4 AJIL 567, 675, 903, 948 (1910); 5 AJIL 1, 725 and Supp. 93 (1911); 6 AJIL 178 (1912); 7 AJIL 1, 140 and Supp. 41 (1913); 19 RGDIP 421 (1912); Appendix I/Simmonds; *Anglo/Norwegian Fisheries Pleadings*, Vol.II 263-278 (excerpts); PCA 1999, 57. See also *infra*.

1986 *Canada/France Filleting in the Gulf of St. Lawrence Award*, Arbitral Tribunal: President Paul de Visscher, Donat Pharand (Canada), Jean-Pierre Queneudec (France); RIAA XIX, 225; No.444/Stuyt; 90 RGDIP 713 (1986); 91 RGDIP 707 (1987). See also *infra*.

1999 *Southern Bluefin Tuna (Provisional Measures) Order*, ITLOS Cases Nos 3/4 – see Settlement of Disputes – Provisional Measures, Standard of Preventing Serious Harm to the Marine Environment *infra*.

2000 *Australia v. Japan; New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction and Admissibility) Award*, Arbitral Tribunal: President Stephen M. Schwebel (USA/ICJ), Chusei Yamada (Japan), Sir Kenneth Keith (New Zealand), Florentino P. Feliciano (Philippines), Per Tresselt (Norway), 39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>.

See also Settlement of Disputes – Preventive Diplomacy A) and D) *infra*.

2000 *Panama v. France Camuco, Seychelles v. France M/V Monte Confurco* and 2001 *Belize v. France Grand Prince* Judgments, ITLOS Cases Nos 5, 6 and 8 – see Settlement of Disputes, Prompt Release of Vessels *infra*.

2001 *EC/Chile Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean*, suspended ITLOS Case No.7, President P. Chandrasekhara Rao, 40 ILM 475 (2001) <<http://www.itlos.org>> and WTO Panel <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

See also Settlement of Disputes – Preventive Diplomacy B) *infra*.

High Seas Fisheries

1958 HSC and HSFC; 1982 LOSC, Part VII, Articles 116-120; 1992 UNCED Rio Agenda 21, Chapter 17; 1995 SSA:

Anglo/Norwegian Fisheries Pleadings, Vol.I, 20, 54 [UK Memorial]; Vol.II, 335-336, 408-414 [UK Reply]; *North Sea Separate Os* Jessup, ICJ Rep. 1969, 82-83, Ammoun, 104, 110; *Pleadings*, Vol.II, 122 [Agent Riphagen, 30 Oct 1968], 243 [Reply by Counsel Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries*

Jurisdiction cases – see *supra*; *Nuclear Tests* Joint Dissents, ICJ Rep. 1974, 370, 522, Dissent Barwick, 434; Pleadings (Australia), 337 [Memorial], 514, 518 [Counsel Byers, 9 July 1974]; *Gulf of Maine* case – see Equitable Maritime Boundary Delimitation *supra*; *Spain v. Canada Fisheries (Jurisdiction)* Judgment [*supra*].

1999/2000 *Southern Bluefin Tuna* case [*supra*]; 2001 *EC/Chile Swordfish* case [*supra*].

Straddling/Highly Migratory Stocks

1982 LOSC, Part V, Articles 63-67, Part VII, Article 116(b), and Annex I;

1992 UNCED Rio Agenda 21, Chapter 17; 1995 SSA:

Gulf of Maine and *Denmark v. Norway* cases – see Equitable Maritime Boundary Delimitation *supra*; *New Zealand v. France* Dissent Weeramantry, ICJ Rep. 1995, 356, Dissent Palmer, 401; 1995 NZ Request (Examination of the Situation), para.24; Oral Hearings, CR 95/19, 81 [Counsel Lauterpacht, 11 Sep 1995]; *Spain v. Canada Fisheries (Jurisdiction)* Judgment [*supra*].

United States – Import Prohibition of Certain Shrimp and Shrimp Products Report AB-1998-4, addressing the protection and conservation of highly migratory species of sea turtles – see Protection and Preservation of the Marine Environment, Obligation to Protect and Preserve the Marine Environment *infra*; 1999 *Southern Bluefin Tuna (Provisional Measures)* Order – see Settlement of Disputes – Provisional Measures, Standard of Preventing Serious Harm to the Marine Environment *infra*; 2000 *Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award – see *supra*; 2001 *EC/Chile Swordfish* case – see *supra*.

On Canada's special interest in ICNAF/NAFO stocks, see *Gulf of Maine* Pleadings, Vol.I, 90 [Canada's Memorial], Vol.III, 151-152, 160, 418 [Canada's Counter-Memorial], Vol.IV, 45, 298-300 [US Counter-Memorial], Vol.V, 99-109 [Canada's Reply], 432-439, 507-508, 510, 522-524 [US Reply], Vol.VI, 354-357 [Counsel Rashkow, 16 April 1984], Vol.VII, 81 [Counsel Binnie, 4 May], 104 [Counsel Bowett, 5 May], 174-178 [Counsel Feldman, 9 May 1984].

On whaling and sealing (1982 LOSC, Articles 65 and 120), see 1932 *Southeastern Greenland* Orders, 1933 *Eastern Greenland* Judgment and 1956 *Antarctica* Orders *supra*; *Anglo/Norwegian Fisheries* Judgment, ICJ Rep. 1951, 178; Pleadings, Vol.I, 20, 101 [UK Memorial], 242 [Norway's Counter-Memorial]; *IMCO* Pleadings, 52 [Liberia]; *Gulf of Maine* Pleadings, Vol.V, 46 [Canada's Reply]; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 46, 71; Norway's Counter-Memorial, paras 119-131, 572-578, Appendixes 3-4, Denmark's Reply, paras 174-199, Norway's Rejoinder, paras 135-149; Oral Hearings, CR 93/2, 39-40, 56-58 [Counsel Trolle, 12 Jan 1993], CR 93/5, 29-32, 53-55 [Agent Tresselt, 15 Jan 1993]; *Southern Bluefin Tuna (Jurisdiction)*

Hearings, Vol.II [Counsel Irwin, 8 May], Vol.III [Counsel Lauterpacht, 10 May 2000] <<http://www.worldbank.org/icsid>>.

On presentational sea, see Exclusive Economic (Fishery) Zone *supra*.

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On UK/France Convention for Defining and Regulating the Limits of the Exclusive Right of the Oyster and Other Fishery on the Coasts of Great Britain and France of 2 August 1839 [27 BFSP 983; *Minquiers and Ecrehos* Pleadings, Vol.I, 179-186; as (slightly) modified by the Anglo/French Agreement on the Limits of French Fisheries in Granville Bay of 20 December 1928], see *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 61 [UK Memorial], 426-427 [Norway's Counter-Memorial], Vol.II, 476 [UK Reply]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 51, 57-58, 66, Individual O. Basdevant, 79, 82; *Minquiers and Ecrehos* Pleadings, Vol.I, 49-54, 56, 58, 119-121 [UK Memorial], 437-495, 556 [UK Reply], Vol.II, 62, 66, 75-77, 80 [Counsel Fitzmaurice, 18 and 19 Sep 1953], 250-256, 262-263, 276 [Agent Gros, 30 Sep], 345 [Counsel Harrison, 5 Oct], 348-351, 354, 358-362 [Fitzmaurice, 5 Oct 1953]; *Fisheries Jurisdiction* Pleadings (UK), 322 [Memorial (Merits)].

On UK/France Fisheries Convention of 11 November 1867, Revising the 1839 Convention [ratified by Napoleon III on 18 December 1867, but never came into operation, *Minquiers and Ecrehos* Pleadings, Vol.I, 187-208], see *Minquiers and Ecrehos* Judgment, ICJ Rep. 1953, 60; Pleadings, Vol.I, 49, 55 [UK Memorial], 455-464 [UK Reply], Vol.II, 80-82 [Counsel Fitzmaurice, 19 Sep 1953].

On Convention for Regulating the Police of the North Sea Fisheries, The Hague, 6 May 1882 [73 BFSP 39; UN Doc. ST/LEG/SER.B/1, 179 (1951); superseded by the 1964 European Fisheries Convention *infra*], see *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 133 [Agent Bey, 8 Aug 1927], 162 [Agent Basdevant, 9 Aug 1927], 206-207 [France's Memorial], 317 [Turkey's Counter-Memorial], 347 [Observations Fedozzi], 377 [Consultation Fedozzi]; *Access To, Or Anchorage In, The Port of Danzig, of Polish War Vessels* Advisory Opinion, PCIJ Series A/B, No.43, 141 (1931); *Anglo/Norwegian Fisheries* ICJ Rep. 1951, 116 – Judgment, 139, Dissent Sir Arnold McNair, 162, 163, 178-180; *Anglo/Norwegian* Pleadings, Vol.I, 20, 31, 62, 66-67, 172 [UK Memorial], 271-274 [Norway's Counter-Memorial], Vol.II, 96-98 272, 345, 409, 473, 511, 512, 514, 526, 756-757 [UK Reply], Vol.III, 281, 347, 348-350, 362, 364, 427-428, 460-461, 479 [Norway's Rejoinder]; *Minquiers and Ecrehos* Pleadings, Vol.I, 556 [UK Reply]; *IMCO* Pleadings, 88 [Liberia], 355 [Riphagen/NL, 29 April 1960]; *North Sea* Judgment, ICJ Rep. 1969, 13; *North Sea* Pleadings, Vol.I, 218-219 [Denmark's Counter-Memorial], Vol.II, 69 [Agent Jacobsen, 28 Oct 1968]; *Fisheries Jurisdiction (Merits)* Separate Os Waldock, ICJ Rep. 1974, 105-106, 227; Pleadings (UK), 268-269, 322-323 [Memorial (Merits)], (FRG), 3

[Application], 149-150, 211-212, 245 [Memorial (Merits)]; *Gulf of Maine Pleadings*, Vol.II, 64, 70 [US Memorial].

On UK/Denmark Convention for Regulating the Fisheries Outside Territorial Waters in the Ocean Surrounding the Faroe Islands and Iceland of 24 June 1901 [UN Doc. ST/LEG/SER.B/1, 232 (1951); upon its denunciation by Iceland in 1949, remained partly in force, as amended by UK/Denmark (Faroes) on 27 April 1959, 337 UNTS 416; SER.B/15, 879 (1970)], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 31, 63 [UK Memorial], Vol.III, 699; *Fisheries Jurisdiction (Merits)* Judgment, ICJ Rep. 1974, 11, Separate Os Waldock, 105-106, 107, 227; Pleadings (UK), 3 [Application], 27 [Iceland's Memorandum], 269, 340 [Memorial (Merits)], 458-459 [Counsel Silkin, 25 March 1974], 490 [Counsel Slynn, 29 March 1974], (FRG), 3 [Application], 212, 225 [Memorial (Merits)]; 1989 *Guinea-Bissau/Senegal Award* [94 RGDIP 254 (1990)], para.64.

On USA/Canada Treaty for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River of 1930 [184 LNTS 305], as superseded by USA/Canada Treaty on Pacific Salmon Fishery of 28 January 1985 [in force: 18 March 1985], as Amended in 1986/1995 [1994/95 *Tenth Annual Report of the Pacific Salmon Commission*, 122 (1995) and 1998/99 *Fourteenth Annual Report* 99 (1999)], see *Fisheries Jurisdiction Pleadings* (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)]; *Gulf of Maine Pleadings*, Vol.I, 115 [Canada's Memorial], Vol.III, 85-86 [Canada's Counter-Memorial], Vol.V, 438 [US Reply]; *Spain v. Canada* Separate O. Oda, ICJ Rep. 1998, 480, para.12.

On London International Fishery Conference of 1943 [Cmnd 6496], see *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 54 [UK Memorial], 335 [Norway's Counter-Memorial]; *IMCO Pleadings*, 91 [Liberia], 355 [Riphagen/NL, 29 April 1960]; *Gulf of Maine Pleadings*, Vol.VII, 104 [Counsel Bowett, 5 May 1984].

On International Convention for the Regulation of Whaling, Washington, 2 December 1946 [in force: 10 November 1948, 161 UNTS 72], Protocol of 19 November 1956 [in force: 4 May 1959, 338 UNTS 366], and related arrangements [486 UNTS 263; 3 ILM 107 (1964); 71 RGDIP 184 (1972)], see *IMCO Pleadings*, 52 [Liberia]; *Fisheries Jurisdiction Pleadings* (UK), 363, 364 [Memorial (Merits)], 463 [Counsel Silkin, 25 March 1974], (FRG), 247 [Memorial (Merits)]; *Spain v. Canada* Separate O. Oda, ICJ Rep. 1998, 480, para.12; *Southern Bluefin Tuna (Jurisdiction)* Award, para.38(i), 39 ILM 1359 (2000); Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000], Vol.II [Counsel Irwin, 8 May], Vol.III [Lauterpacht, 10 May 2000] <<http://www.worldbank.org/icsid>>.

On Convention on the Inter-American Tropical Tuna Commission of 31 May 1949 [in force: 3 March 1950, 80 UNTS 3], see *Fisheries Jurisdiction Pleadings* (UK), 363, 364 [Memorial (Merits)], (FRG), 246, 247 [Memorial (Merits)]; *Gulf*

of *Maine* Pleadings, Vol.III, 86 [Canada's Counter-Memorial]; *Spain v. Canada* Separate O. Oda, ICJ Rep. 1998, 480, para.12.

On Norway/Sweden Fishery Agreement of 20 December 1950 [*Minquiers* Pleadings, Vol.I, 593-594], see *Miniquiers and Ecrehos* Pleadings, Vol.I, 478 [UK Reply].

On UK/France Agreement (with Two Annexed Charts) Regarding Rights of Fishery in Areas of the Ecrehos and Minquiers of 1951, see *Minquiers and Ecrehos* Judgment *supra*.

On International Convention for the High Seas Fisheries of the North Pacific Ocean, Tokyo, 9 May 1952 [in force: 12 June 1953, 205 UNTS 65], Protocol of 25 April 1978 [in force: 20 February 1979] [superseded as of 21 February 1993 by Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, Moscow, 11 February 1992, in force: 16 February 1993], see *IMCO* Pleadings, 51 [Liberia]; *North Sea* Separate O. Jessup, ICJ Rep. 1969, 83; *Fisheries Jurisdiction (Merits)* Joint Separate Os, ICJ Rep. 1974, 50 n.1, 222 n.1; Pleadings 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)]; *Gulf of Maine* Pleadings, Vol.III, 86 [Canada's Counter-Memorial]; *Spain v. Canada (Jurisdiction)* Separate O. Oda, ICJ Rep. 1998, 480, para.12.

On USA/Canada Halibut Preservation Convention of 1952 [222 UNTS 77], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)]; *Gulf of Maine* Pleadings, Vol.I, 115 [Canada's Memorial], Vol.III, 85-86 [Canada's Counter-Memorial].

On USA/Canada Convention on Great Lake Fisheries of 1954 [in force: 11 October 1955, 6 UST 2837; 238 UNTS 97], as Amended on 5 April 1966 and 19 May 1967 [18 UST 1402], see *Gulf of Maine* Pleadings, Vol.III, 85 [Canada's Counter-Memorial], Vol.VII, 258-260 [Counsel Colson, 11 May 1984].

On Japan/USSR Convention on High Seas Fisheries of the North-West Pacific Ocean of 14 May 1956 [AJIL 763 (1959)], see *Fisheries Jurisdiction (Merits)* Joint Separate Os, ICJ Rep. 1974, 50 n.1, 222 n.1; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On North Pacific Fur Seals Convention of 1957 [314 UNTS 105], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)]; *Gulf of Maine* Pleadings, Vol.III, 85 [Canada's Counter-Memorial]; *Spain v. Canada* Separate O. Oda, ICJ Rep. 1998, 480, para.12.

On USA/Cuba Shrimp Convention of 1958 [358 UNTS 63], *Fisheries Jurisdiction (Merits)* Separate O. Dillard, ICJ Rep. 1974, 68; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Convention on Fishing in the Waters of Danube, Bucharest, 29 January 1958 [339 UNTS 23], see *Gabcikovo* Judgment, ICJ Rep. 1997, 23; Oral Hearings, CR 97/2 [trans.], 37 [Counsel Kiss, 3 March 1997], CR 97/5 [trans.], 8-9 [6 March], CR 97/11, 21 [Counsel Watts, 27 March 1997].

On Convention on Fishing in the Black Sea of 7 July 1959 [in force: 21 March 1960, 377 UNTS 203], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Agreement on the Protection of the Salmon Population in the Baltic Sea of 20 December 1962 [in force: 1 March 1966, UN Doc. ST/LEG/SER.B/15, 859], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

USSR/USA Agreement on Fishing off Alaska of 1964 [4 ILM 176 (1965)], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On European Fisheries Convention, London, 2 March 1964 [581 UNTS 57; originated in the UK initiative and superseded the 1882 North Sea Fisheries Convention *supra*], see *North Sea Separate O.* Jessup, ICJ Rep. 1969, 80, *Separate O.* Ammoun, 129-130, *Dissent Sorensen*, 250; *North Sea Pleadings*, Vol.I, 269 [Denmark's Counter-Memorial], 407 [FRG Reply], 461, 490-491 [Common Rejoinder of Denmark/NL]; *Fisheries Jurisdiction* Pleadings (UK), 342-343 [Memorial (Merits)], 459, 475 [Counsel Silkin, 25 March 1974], 505 [Counsel Slynn, 29 March 1974], (FRG), 226-227, 254 [Memorial (Merits)], 360, 366 [Agent Jaenicke, 2 April 1974]; 1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 14, 129-130, 140, 1978 Decision [*id.* 466]; *Gulf of Maine Pleadings*, Vol.III, 140 [Canada's Counter-Memorial]; *Libya/Malta Pleadings*, Vol.II, 115 n.4 [Libya's Counter-Memorial]; *Denmark v. Norway Separate O.* Oda, ICJ Rep. 1993, 94.

On Japan/Korea Fisheries Agreement of 1965 [4 ILM 1128 (1965)], see *Fisheries Jurisdiction* Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On International Convention for the Conservation of Atlantic Tunas, Rio de Janeiro, 14 May 1966 [in force: 21 March 1969, 673 UNTS 63; 6 ILM 293 (1967)], Protocols, Paris, 10 July 1984, and Madrid, 5 June 1992, see *Fisheries Jurisdiction (Merits)* *Separate O.* Dillard, ICJ Rep. 1974, 68; Pleadings (UK), 361 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)]; *Gulf of Maine Pleadings*, Vol.III, 86 [Canada's Counter-Memorial]; *Spain v. Canada Separate O.* Oda, ICJ Rep. 1998, 480, para.12.

On USA/USSR Agreement on Northeast Pacific Fisheries of 13 February 1967 [688 UNTS 157], as extended in 1969 [8 ILM 509 (1969)], 1971 and 1973 [12 ILM 550 (1973)], see *Fisheries Jurisdiction (Merits)* Joint Separate Os, ICJ Rep. 1974, 50 n.1, 222 n.1; Pleadings (UK), 363 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On USA/USSR Agreement on Certain Fishery Problems on the High Seas in the Western Areas of the Middle Atlantic of 25 November 1967 [701 UNTS 162; 7 ILM 144 (1968); 8 ILM 502 (1969)], see *Fisheries Jurisdiction (Merits)* Joint

Separate Os, ICJ Rep. 1974, 50 n.1, 222 n.1; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Japan/New Zealand Fisheries Agreement of 1967 [6 ILM 736 (1967)], see *Fisheries Jurisdiction* Pleadings (UK), 363 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On USA/Japan Agreement on Certain Fisheries Off the US Coast and Salmon Fisheries of 23 December 1968 [TIAS No.6600], see *Fisheries Jurisdiction (Merits)* Joint Separate Os, ICJ Rep. 1974, 50 n.1, 222 n.1.

On USA/USSR King Crab Fisheries Agreement of 1969 [8 ILM 507 (1969)], see *Fisheries Jurisdiction (Merits)* Separate O. Dillard, 68; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Convention on the Conservation of the Living Resources of the Southeast Atlantic, Rome, 3 October 1969 [in force: 24 October 1971, 801 UNTS 101], see *Fisheries Jurisdiction (Merits)* Separate O. Dillard, 68; Pleadings (UK), 362, 364 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On North American Council on Fishery Investigations (NACFI), established in 1920 by the USA, Canada and Newfoundland and joined in 1922 by France, see *Gulf of Maine* Pleadings, Vol.I, 115, 198 [Canada's Memorial], Vol.II, 28, 44 [US Memorial], Vol.III 150-155 [Canada's Counter-Memorial], Vol.IV, 22, 31, 280, 282 [US Counter-Memorial], Vol.V, 436, 466 [US Reply], Vol.VI, 142 [Counsel Bowett, 5 April 1984], 247 [Agent Robinson, 11 April], Vol.VII, 239, 245 [Counsel Colson, 10 and 11 May 1984], 314, Vol.VIII, 24 [Fig.8], 102 [Fig.14], 164 [Fig.18].

On International Convention for the Northwest Atlantic Fisheries (ICNAF), Washington DC, 8 February 1949 [in force: 3 July 1950, 157 UNTS 157; the ICNAF superseded the 1920 NACFI], 1964 Protocol [in force: December 1969, 5 ILM 718 (1966)], Protocol of 6 October 1970 [UN Doc. ST/LEG/SER.B/19, 481 (1980)], see *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 405-406, 409, 411, 681 [UK Reply], Vol.III, 248-249 [Norway's Rejoinder]; *Fisheries Jurisdiction (Merits)* Separate O. Dillard, ICJ Rep. 1974, 68, Separate Os Waldock, 111, 227, Dissent Gros, 136, 140; *Fisheries Jurisdiction* Pleadings (UK), 74 [Request], 361, 364, 413 [Memorial (Merits)], 454, 463 [Counsel Silkin, 25 March 1974], 500-502 [Counsel Slynn, 29 March 1974], (FRG), 26-27 [Request], 245-246, 247, [Memorial (Merits)], 308-309, 311 [Agent Jaenicke, 28 March 1974]; 1977 *Anglo/French Continental Shelf* Decision [18 ILM 397 (1979)], para.33; *Gulf of Maine* Judgment, ICJ Rep. 1984, 283; *Gulf of Maine* Pleadings, Vol.I, 89-91, 115, 131, 198-199, 264-291, 299-311 [Canada's Memorial], Vol.II, 28-33, 45-46 [US Memorial], Vol.III, 150-162, 191 [Canada's Counter-Memorial], Vol.IV, 23, 30-49, 134-135, 138, 275-306 [US Counter-Memorial], Vol.V, 42, 67, 75, 78, 92, 99-109, 113, 123-124 [Canada's Reply], 436, 466, 471-472, 546, 629-632 [US

Reply], Vol.VI, 95 [Counsel Binnie, 4 April 1984], 139-145 [Counsel Bowett, 5 April], 235, 237, 246-247 [Agent Robinson, 11 April], 353-358 [Counsel Rashkow, 16 April], Vol.VII, 16-17 [Agent Legault, 3 May], 79-82, 103-104 [Binnie, 4 and 5 May], 239-240, 245-258 [Counsel Colson, 10 and 11 May 1984], 311-319, Vol.VIII, 11 [Fig.22], 25 [Fig.9], 103 [Fig.15], 164 [Fig.18]; *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 461, para.70, Separate O. Oda, 476, 480, paras 5, 12; Pleadings, 221-222 [Canada's Counter-Memorial].

The USA withdrew from the ICNAF on 31 December 1976.

On Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO), Ottawa, 24 October 1978 [in force: 1 January 1979, OJEC L 378/1 (1978); the NAFO superseded the 1949 ICNAF], as Amended (Annex III) on 1 January 1980, 9 October 1987 and 13 September 1996 [*Spain v. Canada* Pleadings, 169-206], see *Gulf of Maine* Pleadings, Vol.I, 198-199, 205-210 [NAFO's Annex III], Vol.II, 73 [US Memorial], Vol.III, 151-152 [Canada's Counter-Memorial], Vol.IV, 275 n.1, 304 n.2 [US Counter-Memorial], Vol.V, 67, 73 [Reply of Canada], 436, 466 [US Reply], Vol.VII, 80 [Counsel Binnie, 4 May 1984], 239, 254, 256 [Counsel Colson, 10 and 11 May 1984], Vol.VIII, 107 [Fig.19], 164 [Fig.18]; *Denmark v. Norway* Oral Hearings, CR 93/5, 53 [Agent Tresselt, 15 Jan 1993]; *Spain v. Canada Fisheries (Jurisdiction)* Judgment, ICJ Rep. 1998 [*supra*] and Pleadings; *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, paras 4-7, 99, A/NZ Reply, paras 49-51, Hearings, Vol.II [Burmester, 8 May 2000] <<http://www.worldbank.org/icsid>>.

On Canada/USA bilateral and other regional treaties, see *Gulf of Maine* Pleadings, Vol.I, 115 [Canada's Memorial], Vol.III, 85-87 [Canada's Counter-Memorial], Vol.V, 438, 510 [US Reply], Vol.VII, 258-263 [Counsel Colson, 11 May 1984].

On North-East Atlantic Fisheries Convention (NEAFC), London, 24 January 1959 [in force: 27 June 1963, 486 UNTS 157] [1959 NEAFC superseded the Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, 5 April 1946, in force: 15 April 1953, 231 UNTS 199, which superseded the International Convention for the Regulation of the Meshes of Fishing Nets and the Size Limits of Fish, 23 March 1937, Cmnd 5494; cf. *IMCO* Pleadings, 90 (Liberia)], see *Fisheries Jurisdiction (Jurisdiction)* Judgment, ICJ Rep. 1973, 6, Separate Os Fitzmaurice, 26, 70, (*Merits*) Judgments, ICJ Rep. 1974, 6-7, 16, 26, 28, 31, 35, 186, 196, 200-201, 206, Separate O. Dillard, 68-69, Separate Os Waldock, 111, 124, 227, Dissent Gros, 136, 138, 140, Dissent Petren, 169, Dissent Onyeama, 172; *Fisheries Jurisdiction* Pleadings (UK), 8, 10 [Application], 74 [Request], 149 [Memorial (Jurisd.)], 270-271, 273, 296-308, 364, 365, 373, 374, 379-381 [Memorial (Merits)], 454-456, 463, 472-476 [Counsel Silkin, 25 March 1974], 490-492, 500-504, 507 [Counsel Slynn, 29

March 1974], (FRG), 5-6, 11 [Application], 26-29 [Request], 179-190, 231, 245, 246-247 [Memorial (Merits)], 309, 311 [Agent Jaenicke, 28 March 1974], 365 [Jaenicke, 2 April 1974]; 1977 *Anglo/French Continental Shelf* Decision [18 ILM 397 (1979)], para.33; *Gulf of Maine* Pleadings, Vol.IV, 290 [US Counter-Memorial]; *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 461, para.70, Separate O. Oda, 480, para.12.

On Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries (NEAFC), London, 18 November 1980 [in force: 17 March 1982, OJEC L 227/22 (1981); the 1980 NEAFC superseded the 1959 NEAFC], see *Gulf of Maine* Pleadings, Vol.III, 154, 170 [Canada's Counter-Memorial], Vol.VII, 261-262 [Counsel Colson, 11 May 1984]; *Spain v. Canada* Pleadings, 62 n.65 [Spain's Memorial].

On Canada/Norway Agreement on Sealing and the Conservation of the Seal Stocks in the Northwest Atlantic of 1971, see *Fisheries Jurisdiction (Merits)* Separate O. Dillard, 68; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Convention for the Conservation of Antarctic Seals, London, 1 June 1972 [in force: 11 March 1978, 11 ILM 251 (1972)], see *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.176 <<http://www.worldbank.org/icsid>>.

On Protocol 6 (Article 2) to the 1972 EC/Iceland Free Trade Agreement and on the 1973 EC/Norway Agreement, see Participation by International Organizations *infra*.

On Brazil/USA Shrimp Conservation Agreement of 1972 [11 ILM 453 (1972)], see *Fisheries Jurisdiction (Merits)* Separate O. Dillard, 68; Pleadings (UK), 362 [Memorial (Merits)], (FRG), 246 [Memorial (Merits)].

On Iceland/Norway/USSR Agreement on the Regulation of the Fishing of the Atlanto-Scandian Herring of 1972, *Fisheries Jurisdiction (Merits)* Separate O. Dillard, 68; Pleadings (UK), 362 [Memorial (Merits)], 463 [Counsel Silkin, 25 March 1974], (FRG), 246 [Memorial (Merits)].

On Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, Gdansk, 13 September 1973 [in force: 28 July 1974, 12 ILM 1291 (1973)], see *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 461, para.70.

On UK/Faroes Fisheries Arrangement of 18 December 1973 [in force: 1 January 1974, 925 UNTS No.I-13185], see *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 26, 28, 195; Pleadings (UK), 455-456 [Counsel Silkin, 25 March 1974], 500-501, 502-503 [Counsel Slynn, 29 March 1974], (FRG), 364-365 [Agent Jaenicke, 2 April 1974].

On Agreement on the Regulation of the Fishing of North-East Arctic Cod of 15 March 1974 [(1974) UKTS No.35], see *Fisheries Jurisdiction (Merits)*

Judgments, ICJ Rep. 1974, 26, 28, 195; Pleadings (UK), 503-504 [Counsel Slynn, 29 March 1974], (FRG), 365 [Agent Jaenicke, 2 April 1974].

On Convention of the Conservation of Antarctic Marine Living Resources (CCAMLR), Canberra, 20 May 1980 [in force: 7 April 1982, 1329 UNTS 47], see *Gulf of Maine* Pleadings, Vol.IV, 132 [US Counter-Memorial], Vol.V, 447 [US Reply], Vol.VI, 277 [Counsel Stevenson, 12 April 1984]; *Gabcikovo* Oral Hearings, CR 97/2 [trans.], 12 n.11 [Agent Szenasi, 3 March 1997]; *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, paras 37, 39-46, 137, A/NZ Reply, para.137 <<http://www.worldbank.org/icsid>>; 2000 *Panama v. France Camuco* Judgment, Dissents Anderson, Vukas and Wolfrum, and *Seychelles v. France M/V Monte Confurco* Judgment, and 2001 *Belize v. France Grand Prince* Judgment, ITLOS Cases Nos 5, 6 and 8 – see Settlement of Disputes, Prompt Release of Vessels and Crews *infra*.

On Convention for the Conservation of Salmon in the North Atlantic Ocean of 2 March 1982 [in force: 1 October 1983, 1338 UNTS 33], see *Gulf of Maine* Pleadings, Vol.III, 86 [Canada's Counter-Memorial]; *Spain v. Canada* Pleadings, 62 n.65 [Spain's Memorial].

On 1985 EC/Denmark(Greenland) Fisheries Agreement, see Participation by International Organizations *infra*.

On 1988 and 1992 EC/Morocco Fisheries Agreement, see Participation by International Organizations *infra*.

On Denmark(Greenland)/Iceland/Norway Agreement on the Capelin Stock of 12 June 1989, as extended until 30 April 1994 [Denmark's Memorial, Annex 17; GJM 92/2 Add., Annex 104 (1992)], see *Denmark v. Norway* Judgment, ICJ Rep. 1993, 71; Denmark's Memorial, paras 90-91, Denmark's Reply, paras 154-156; Oral Hearings, CR 93/1Corr., 11 [Agent Lehmann, 11 Jan 1993], CR 93/2, 53-54 [Counsel Trolle, 12 Jan], CR 93/5, 27, 55, 64 [Agent Tresselt, 15 Jan 1993].

On Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific Ocean, Wellington, 24 November 1989 [in force: 17 May 1991, 29 ILM 1449 (1990)], Protocols I and II, Noumea, 20 October 1990 [in force: 28 February 1992 and 5 October 1993, 29 ILM 1462, 1463 (1990)], see 1997 *M/V Saiga (Prompt Release)* Judgment [37 ILM 360 (1998)], para.57, Dissent Wolfrum and Yamamoto, para.23; *Southern Bluefin Tuna (Jurisdiction)* Hearings, Vol.I [Counsel Sir Elihu Lauterpacht, 7 May 2000] <<http://www.worldbank.org/icsid>>.

On Canada/Denmark(Greenland) Memorandum on Conservation of Narwhal and Beluga Whales of 7 December 1989 [28 *Canadian YIL* 467 (1990)], see *Denmark v. Norway* Oral Hearings, CR 93/2, 32 [Counsel Lyngne, 12 Jan 1993].

On Agreement on Cooperation in Research, Conservation and Management of Marine Mammals in the North Atlantic (NAMMCO), Nuuk, 9 April 1992 [in force: 8 July 1992, *UM LOS Bull.* 66 (1994 No.26)], see *Denmark v. Norway*

Oral Hearings, CR 93/1Corr., 14-15 [Agent Lehmann, 11 Jan 1993], CR 93/2, 58 [Counsel Trolle, 12 Jan], CR 93/5, 27, 57 [Agent Tresselt, 15 Jan 1993].

On Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region, Niue, 9 July 1992 [in force: 20 May 1993, 32 ILM 136 (1993)], see *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.141, Hearings, Vol.III [Question 9 of Arbitrators, 10 May 2000], Written Answers of the Parties to Question 9 [26 May 2000] <<http://www.worldbank.org/icsid>>.

On Arrangement for the Management of the Western Pacific Purse Seine Fishery, Palau, 28 October 1992 [in force: 8 December 1995], see *Southern Bluefin Tuna (Jurisdiction)* Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000] <<http://www.worldbank.org/icsid>>.

On 1993 Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, see 1952 International Convention for the High Seas Fisheries of the North Pacific Ocean *supra*.

On Convention for the Conservation of Southern Bluefin Tuna, Canberra, 10 May 1993 [in force: 20 May 1994, 1819 UNTS 360; *UN LOS Bull.* 57 (1994 No.26); *Southern Bluefin Tuna Award*, para.23], see *Southern Bluefin Tuna (Provisional Measures)* Order, President T.A. Mensah, ITLOS Cases Nos 3 and 4, 38 ILM 1624 (1999) <<http://www.itlos.org>>; 2000 *Southern Bluefin Tuna (Jurisdiction)* Pleadings and Award, President S.M. Schwebel, 39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Vice-President Nelson, para.5; Oral Hearings, ITLOS/PV.01/07, 11-12 [Counsel Lowe, 19 Nov 2001] <<http://www.itlos.org>>.

On FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, 24 November 1993 [33 ILM 968 (1994); 90 AJIL 267 (1996)], see *Gabcikovo* Oral Hearings, CR 97/2 [trans.], 12 n.11 [Agent Szenasi, 3 March 1997]; *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 461, para.70, Dissents Bedjaoui, 544, paras 75-77, Ranjeva, 562-565, paras 23-25, 30, Vereshchetin, 577, para.15, Torres Bernardez, 705, para.339, at 716-717, paras 375, 377, at 721, para.386; Pleadings, 295 n.301 [Canada's Counter-Memorial], 511 [Co-Agent Hankey, 11 June 1998] <<http://www.icj-cij.org>>; *M/V Saiga* Judgment, 38 ILM 1323 (1999), para.85; *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.141, Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000] <<http://www.worldbank.org/icsid>>.

On Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea of 16 June 1994 [34 ILM 67 (1995)], see *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.37 <<http://www.worldbank.org/icsid>>.

On Eritrea/Yemen Memorandum of Understanding on Cooperation in the Areas of Maritime Fishing, Trade and Transportation of 1994, see 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award, paras 29, 90, 107, 111, and Annexes II & III [40 ILM 983 (2001) <<http://www.pca-cpa.org>>].

On 1994 UK/France Agreement on Fishing Rights in Waters Between Guernsey and French Coasts, see *Minquiers and Ecrehos* Judgment *supra*.

On 1995 EC/Canada Fisheries Agreement, see Participation by International Organizations *infra*.

On UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN 1995 Fish Stocks Agreement), New York, 4 December 1995 [in force: 11 December 2001, 34 ILM 1542 (1995); 90 AJIL 270 (1996)], see *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 432, paras 20, 64-65, 70, 81, Separate O. Oda, paras 14-15, Dissents Vice-President Weeramantry, para.39, Bedjaoui, para.89, Ranjeva, paras 23-30, Vereshchetin, paras 14-16, Torres Bernardez, paras 180, 339, 363, 376-378, 386, 396, 408-409; Pleadings, 44-45, 100-104, 123-126, 137 [Spain's Memorial], 249-250, 265, 294 n.301 [Canada's Counter-Memorial], Hearings, CR 98/9 [trans.], 31-32 [Counsel Rodriguez, 9 June 1998], CR 98/10, 16 [Counsel Highet, 10 June], CR 98/11 [trans.], 5, 16 [Agent Kirsch, 11 June], 35 [Co-Agent Hankey], 59-60 [Counsel Willis], CR 98/12, 11 [12 June], CR 98/14 [Hankey, Willis, 17 June 1998]; *M/V Saiga* Judgment, 38 ILM 1323 (1999), paras 85, 156, Separate O. Nelson, n.4; *Southern Bluefin Tuna (Provisional Measures)* Separate Os Laing, para.19, Treves, paras 10-11 [38 ILM 1624 (1999)]; *Southern Bluefin Tuna (Jurisdiction)* Award, paras 38(i) and 71, 39 ILM 1359 (2000); Japan's Memorial, paras 143, 172, A/NZ Reply, para.70, 178, Hearings, Vol.I [Counsel Lauterpacht, Lowe, 7 May 2000], Vol.II [Counsel Burmester, Irwin, Jennings, 8 May], Vol.IV [Agent Caughley, 11 May 2000] <<http://www.worldbank.org/icsid>>.

On Agreement on the Conservation of Cetaceans of Black Sea, Mediterranean Sea and Contiguous Atlantic Ocean, Monaco, 24 November 1996 [36 ILM 777 (1997)], see *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, paras 37, 140, Hearings, Vol.III [Question 9 of Arbitrators, 10 May 2000], Written Answers of the Parties to Question 9 [26 May 2000] <<http://www.worldbank.org/icsid>>.

On Eritrea/Yemen Treaty on the Joint Committee for Bilateral Cooperation of 16 October 1998, see 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award, paras 29, 90, 107, 111, and Annexes II & III [40 ILM 983 (2001) <<http://www.pca-cpa.org>>].

On Iceland/Norway/Russia Fisheries (Barents Sea Loophole) Agreement, 15 May 1999 [14 IJMCL 484 (1999)], see *Southern Bluefin Tuna (Jurisdiction)*

Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000] <<http://www.worldbank.org/icsid>>.

On Framework Agreement for the Conservation of Living Marine Resources of the High Seas of the South-East Pacific, Galapagos, 14 August 2000 [*UN LOS Bull.* 70 (2001 No.45)], see suspended *EC/Chile Swordfish*, ITLOS Case No.7, 40 ILM 475 (2001) <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

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On 1853 *UK/USA The Washington Award*, see Internal Waters, Territorial Sea and Baselines, Bays, and Regime of Islands *supra*.

On 1877 *UK/USA Fishery Rights (Halifax Commission)* [No.96/Stuyt], see *Gulf of Maine Pleadings*, Vol.I, 190-192 [Canada's Memorial], Vol.II, 27 [US Memorial].

On 1888 *The Araunah* [82 BFSP 1058], see *SS Lotus* PCIJ Series A, No.10 (1927) – Dissent Moore, 80-81, 83; *Gulf of Maine Pleadings*, Vol.V, 648, 651, 652 [US Reply].

On 1893 *UK/USA Behring Sea Fur Seal Award* [*supra*], see *SS Lotus* PCIJ Series A, No.10 (1927) – Dissent Moore, 89; *Eastern Greenland Pleadings*, 491 [Norway's Counter-Memorial]; *Anglo/Norwegian Fisheries Pleadings*, Vol.I, 270, 352 [Norway's Counter-Memorial], Vol.II, 79-80, 465, 602 [UK Reply], Vol.III, 479, 485-486 [Norway's Rejoinder]; *Nuclear Tests Pleadings* (Australia), 339-340 [Memorial]; *Gulf of Maine Pleadings*, Vol.V, 510 [US Reply]; *Denmark v. Norway* Oral Hearings, CR 93/5, 29 [Agent Tresselt, 15 Jan 1993]; *Gabcikovo* Oral Hearings, CR 97/4, 18 [Counsel Crawford, 5 March 1997], CR 97/9, 65-66 [Counsel McCaffrey, 25 March], CR 97/10, 10-12, 15 [26 March 1997].

On 1906 *Mortensen v. Peters (The Niobe; Moray Firth)* Judgment [14 S.L.T. 227; (1906) 8 F. (Ct. of Sess.) 93; 43 S.L.R. 872; 1 AJIL 526 (1907); No.68/Simmonds], see *Anglo/Norwegian Fisheries* Dissent Read, ICJ Rep. 1951, 192; *Pleadings*, Vol.I, 64, 92 [UK Memorial], Vol.III, 252, 328-330 [Norway's Rejoinder], Vol.IV, 87-88 [Agent Sir Eric Beckett, 27 Sep 1951]; *Tunisia/Libya Pleadings*, Vol.IV, 338 [Libya's Reply].

On 1909 *Norway v. Sweden Grisebadarna Award*, see Equitable Maritime Boundary Delimitation *supra*.

On 1909 and 1910 Judgments on fishing rights (the Hawar Islands) of Bahraini courts, see *Qatar v. Bahrain (Merits)* Oral Hearings, CR 2000/8, 26 [Counsel Shankardass, 5 June 2000], 32 [Counsel Sinclair], CR 2000/13, 16, 46 [Counsel Volterra, 13 June 2000].

On 1910 *UK/USA North Atlantic Coast Fisheries Award* [*supra*], see *Corfu Channel* Dissent Krylov, ICJ Rep. 1949, 74, Dissent Azevedo 101; *Corfu Pleadings*, Vol.II, 137 [Counter-Memorial of Albania], 293 [UK Reply], Vol.III, 274-275, 276 [Agent Sir Eric Beckett, 11 Nov 1948], 377, 382, 386 [Counsel

Cot, 18 Nov 1948], Vol.IV, 543, 553 [Beckett, 18 Jan 1949], 673 [Cot, 22 Jan 1949]; *Anglo/Norwegian Fisheries* Dissent Read, ICJ Rep. 1951, 188; *Anglo/Norwegian Pleadings*, Vol.I, 63-64, 69 [UK Memorial], 423-424, 427-437, 443, 444, 450, 477-478, 504-506, 554-555, 569, 573 [Norway's Counter-Memorial], Vol.II, 451, 468, 471-473, 475-477, 479-488, 527-528, 562-564, 576, 602-603, 617-619, 622, 629, 638 [UK Reply], Vol.III, 318, 322-328, 341, 356, 486 [Norway's Rejoinder], Vol.IV, 72, 82-85, 87 [Agent Sir Eric Beckett, 27 Sep 1951], 268, 272-275, 507 [Counsel Bourquin, 11 and 26 Oct 1951]; *US Nationals in Morocco Pleadings*, Vol.I, 65-67 [France's Memorial], Vol.II, 172-173 [Agent Gros]; *Minquiers and Ecrehos Pleadings*, Vol.II, 88 [Counsel Fitzmaurice, 21 Sep 1953]; *North Sea Separate O.* Ammoun, ICJ Rep. 1969, 113 n.4; *Fisheries Jurisdiction Pleadings* (UK), 489 [Counsel Slynn, 29 March 1974]; *Tunisia/Libya Pleadings*, Vol.IV, 117 n.2, 322-324, 327, 337-338 [Libya's Reply]; *Gulf of Maine Pleadings*, Vol.I, 195-197 [Canada's Memorial], Vol.II, 25 [US Memorial], Vol.V, 99 n.79 [Canada's Reply], 509, 517 [US Reply]; 1986 *Canada/France Award* [*supra*]; *Gulf of Fonseca Judgment*, ICJ Rep. 1992, 591-592, Dissent Oda, 736, 747, 750-751; *Libya/Chad Territorial Dispute Separate O.* Ajibola, ICJ Rep. 1994, 72; *M/V Saiga Counter-Memorial* (M) Guinea, para.116, Reply (M) Saint Vincent and the Grenadines, para.63 n.1; *Cameroon v. Nigeria (Preliminary Objections) Judgment*, ICJ Rep. 1998, 296; *Spain v. Canada (Jurisdiction) Dissent* Torres Bernardez, ICJ Rep. 1998, 682-683, para.270; *Panama v. France Camuco Separate O.* Nelson, n.5 [39 ILM 666 (2000) <<http://www.itlos.org>>]; *Qatar v. Bahrain (Merits) Joint Dissent* Bedjaoui, Ranjeva, Koroma, paras 82, 94 n.27, ICJ Rep. 2001 (in press).

On 1927 *The Deutschland* and 1934 *The St. Just* Judgments, see Internal Waters, Territorial Sea and Baselines – Straight Baselines, *supra*.

On 1954 *In Re Sauger et al.* Judgment, see Exclusive Economic (Fishery) Zone – Evolution *supra*.

On 1962 *Denmark/UK The Red Crusader (The Niels Ebbesen)* Report of the Commission of Inquiry, see Use of Force in Enforcement at Sea *infra*.

On 1986 *Canada/France Filleting in the Gulf of St. Lawrence Award* [*supra*], see *Gulf of Fonseca Oral Hearings*, C 4/CR 91/4 [trans.], 33 [Counsel Weil, 18 April 1991]; *Canada/France Award*, para.86 [31 ILM 1173-1174 (1992)]; *M/V Saiga Dissent* Ndiaye, [38 ILM 1323 (1999)], para.36; Memorial (M) Saint Vincents, para.133, Counter-Memorial (M) Guinea, paras 107, 116 n.45; *Southern Bluefin Tuna (Jurisdiction) A/NZ Reply*, para.148 FN 164 <<http://www.worldbank.org/jcsid>>.

See also Exclusive Economic (Fishery) Zone; Continental Shelf – Sedentary Species; Equitable Maritime Boundary Delimitation – Fishery Resource Factors;

and Regime of Islands – Sovereignty Over Island Territory and Joint Fishery Rights, *supra*.

SUBMARINE CABLES AND PIPELINES

1958 HSC, ARTICLES 2(3) AND 26-29; 1958 CSC, ARTICLE 4
1982 LOSC, PART IV, ARTICLE 51, PART V, ARTICLE 56(3), PART VI,
ARTICLE 79, PART VII, ARTICLES 87(1)(C) AND 112-115, PART X,
ARTICLE 124(2):

Corfu Channel Pleadings, Vol.I, 22 [UK Memorial], Vol.III, 279 [Agent Sir Eric Beckett, 11 Nov 1948]; *Antarctica* Pleadings, 25-26 [UK Application]; *North Sea* Judgment, ICJ Rep. 1969, 39, para.65, Separate O. Jessup, 68; Pleadings, Vol.II, 66 [Agent Jaenicke, 25 Oct 1968], 129-130 [Agent Riphagen, 30 Oct], 243 [Reply by Counsel Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Aegean Sea* Pleadings, 438 [Counsel Economides, 16 Oct 1978]; *Gulf of Maine* Pleadings, Vol.III, 58 [Canada's Counter-Memorial]; *Gabcikovo* Oral Pleadings, CR 97/5, 66 [Counsel Sands, 6 March 1997]; *Iran v. USA Oil Platforms* – see High Seas, Freedom of the High Seas *supra*; *Spain v. Canada (Jurisdiction)* Dissents Weeramantry, ICJ Rep. 1998, 506, para.40, Torres Bernardez, 715, para.371.

1985 *Guinea/Guinea-Bissau* Award, paras 25, 105 [25 ILM 266, 295 (1986)]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.32.

On UK/France Submarine Telegraph Convention of 2 January 1859 [*Minquiers and Ecrehos* Pleadings, Vol.I, 209-212], see *Minquiers and Ecrehos* Judgment, ICJ Rep. 1953, 60; Pleadings, Vol.I, 55-56, 118-119 [UK Memorial].

On Convention for the Protection of Submarine Cables, Paris, 14 March 1884 [in force: 1 March 1888, 163 CTS 391], see *SS Lotus* Pleadings, PCIJ Series C, No.13-II, 79 [Agent Basdevant, 3 Aug], 133 [Agent Bey, 8 Aug 1927], 162 [Basdevant, 9 Aug 1927], 206, 208 [France's Memorial], 237 [Observations Fedozzi].

See also Access to, Jurisdiction and Treatment in Ports – Ports/Oil and Gas Development *supra*.

ENCLOSED OR SEMI-ENCLOSED SEAS

1982 LOSC, PART IX, ARTICLES 122-123
1995 SSA, ARTICLE 15

North Sea Continental Shelf ICJ Rep. 1969, 3 – Judgment, 13, Separate O. President Bustamante y Rivero, 58, 61, Separate O. Padilla Nervo, 89-90, Dissent Morelli, 199-200; Pleadings, Vol.I, 17, 39, 71-74, 76-80 [FRG Memorial], 205-209 [Denmark's Counter-Memorial], 353, 358-362 [NL Counter-Memorial],

417-432 [FRG Reply], Vol.II, 37-40, 66-67 [Agent Jaenicke, 24 and 25 Oct 1968], 129-131 [Agent Riphagen, 30 Oct], 186, 188 [Jaenicke, 4 Nov 1968]; *Aegean Sea* case – see Equitable Maritime Boundary Delimitation *supra*; *Tunisia/Libya (Merits)* Judgment, ICJ Rep. 1982, 34-35, 41-42; Pleadings, Vol.I, 482-485 [Libya's Memorial], Vol.II, 48 [Tunisia's Counter-Memorial], Vol.V, 362 [Counsel Vallat, 19 Oct 1981]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 343-344; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 11, Dissents Sette-Camara, 78, 81-83, Schwebel, 133, Sir Robert Jennings, 151, (*Merits*) Judgment, ICJ Rep. 1985, 20-22, 40, 42, 50, 52, Joint Separate O., 78-81, Separate O. Valticos, 113, Dissents Mosler, 115-116, 121, Oda, 155, Schwebel, 182; Pleadings, Vol.I, 28-36, 127, 130, 153-157 [Libya's Memorial], Vol.II, 68, 143 [Libya's Counter-Memorial], Vol.III, 183, 206, 211-213, 218 [Malta's Reply], 444, 473 [Counsel Brownlie, 3 Dec 1984]; *Great Belt* case – see Straits Used for International Navigation *supra*; *Gulf of Fonseca* Dissent Oda, ICJ Rep. 1992, 760; Oral Hearings, C 4/CR 91/40, 28-29 [Counsel Lauterpacht, 5 June 1991], CR 91/43, 80 [Counsel Brownlie, 7 June 1991]; *Denmark v. Norway* Separate O. Oda, ICJ Rep. 1993, 103-105; Oral Hearings, CR 93/5, 39 [Agent Tresselt, 15 Jan 1993], CR 93/6, 45 [Agent Haug, 18 Jan], CR 93/7, 27-34 [Counsel Brownlie, 19 Jan], CR 93/10, 50 [Counsel Bowett, 25 Jan 1993]; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.109 <<http://www.icj-cij.org>>; *Qatar v. Bahrain (Merits)* Judgment, para.35, ICJ Rep. 2001 (in press) – see Equitable Maritime Boundary Delimitation *supra*; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 322-325, (*Merits*) Judgment, ICJ Rep. 2002 (in press); Oral Hearings, CR 98/2, 39-44 [Counsel Crawford, 3 March 1998] <<http://www.icj-cij.org>>.

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, ITLOS Case No.10 <<http://www.itlos.org>>; 200- *Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

See also Equitable Maritime Boundary Delimitation – *Denmark v. Norway* case, 1965 Denmark/Norway Agreement *supra*.

On the Caspian Sea, see *Great Belt* Oral Hearings, CR 91/10, 15 [Co-Agent Koskenniemi, 1 July 1991], CR 91/14, 27 [Agent Magid, 5 July 1991].

RIGHT OF ACCESS OF LAND-LOCKED STATES TO AND FROM THE SEA AND FREEDOM OF TRANSIT

1958 HSC, ARTICLE 3

1982 LOSC, PART X, ARTICLES 124-132

Jurisdiction of the European Commission of the Danube Between Galatz and Braila PCIJ Series B, No.14 (1927) – Advisory Opinion, 6, President M. Huber

concurring; *UK, Czechoslovak Republic, Denmark, France, Germany, Sweden/Poland Territorial Jurisdiction of the International Commission of the River Oder* PCIJ Series A, No.23 (1929) – Judgment, 5, President D. Anzilotti; *Railway Traffic Between Lithuania and Poland (Railway Sector Landwarów-Kaisiadorys* PCIJ Series A/B, No.42 (1931) – Advisory Opinion, 108; *Access To, Or Anchorage In, The Port of Danzig, of Polish War Vessels* PCIJ Series A/B, No.43 (1931) – Advisory Opinion, 142-144; *Polish War Vessels Pleadings*, PCIJ Series C, No.55, 70, 75-76 [Statement Free City of Danzig], 113-115 [Report Permanent Commission], 120-121 [Report Ishii], 164-165 [Poland's Memorial], 235-236, 267 [Agent Williams, 9 and 10 Nov 1931], 332-333, 342 [Williams, 12 Nov], 367, 368 [Counsel de Visscher, 14 Nov 1931], 377 [Question of Judge van Eysinga]; *Legal Status of Eastern Greenland* PCIJ Series A/B, No.53 (1933) – Judgment, 52; *Eastern Greenland Pleadings*, PCIJ Series C, No.63, 1107-1108 [Norway's Rejoinder]; PCIJ Series C, No.67, 3337 [Agent Steglich-Petersen, 17 Jan 1933]; *Oscar Chinn* PCIJ Series A/B, No.63 (1934) – Judgment, 65; *Right of Passage (Merits)* Judgment, ICJ Rep. 1960, 6; *IMCO Pleadings*, 216-218 [Switzerland]; *North Sea Judgment*, ICJ Rep. 1969, 42, Dissent Tanaka, 176, Dissent Lachs, 227; *Pleadings*, Vol.I, 408 [FRG Reply], Vol.II, 118 [Counsel Sir Humphrey Waldock, 30 Oct 1968], 122 [Agent Riphagen], 137-138 [Riphagen, 31 Oct], 160 [Agent Jacobsen, 1 Nov 1968]; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 25-27, Dissent Stassinopoulos, 78; *Pleadings*, 140 [Counsel O'Connell, 27 Aug 1976]; *Pleadings*, 268 [Greece's Memorial (Jurisd.)], 343 [Counsel O'Connell, 10 Oct 1978], 429 [Counsel Economides, 13 Oct 1978]; *Libya/Malta Pleadings*, Vol.I, 480-482, 554-569 [Malta's Memorial], Vol.II, 68-71 [Libya's Counter-Memorial], Vol.III, 147-148, 166 [Malta's Reply]; *Great Belt Oral Hearings*, CR 91/13, 21 [Agent Gronberg, 4 July 1991]; *Gabcikovo Judgment*, ICJ Rep. 1997, 18; *Oil Platforms (Preliminary Objection)* Judgment, ICJ Rep. 1996, 819, Separate O. Higgins, 859-860, Dissent Vice-President Schwebel, 887-888, (*Counter-Claims*) Order, ICJ Rep. 1998, 204.

1925 *Chile/Peru Tacna-Arica Award* – see *Equitable Maritime Boundary Delimitation supra*; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], paras 24, 30; *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, Japan's Memorial, para.119, *Hearings*, Vol.II [Counsel Irwin, 8 May 2000] <<http://www.worldbank/icsid>>.

On FCN Treaties, see *Internal Waters, Territorial Sea and Baselines supra*.

On Convention and Statute on Freedom of Transit, Barcelona, 20 April 1921 [in force: 31 October 1922, 7 LNTS 13], see *SS Wimbledon Pleadings*, PCIJ Series C, No.3-Additional Volume, 47 [Germany's Counter-Memorial], 83 [Reply of Four Powers]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Dissent Azevedo, 98, 102, 105; *Great Belt Pleadings*, 249 [Finland's Memorial].

On Declaration Recognizing the Right to a Flag of States Having no Sea Coast, Barcelona, 20 April 1921 [in force: 20 April 1921, 7 LNTS 73], see *IMCO Pleadings*, 88 [Liberia].

On Convention and Statute on the Regime of Navigable Waterways of International Concern, Barcelona, 20 April 1921 [in force: 31 October 1922, 7 LNTS 36], see *SS Wimbledon Pleadings*, 83 [Reply of Four Powers], 143, 145, 155 [Germany's Rejoinder]; *Anglo/Norwegian Fisheries Individual O. Alvarez*, ICJ Rep. 1951, 151; *M/V Saiga Separate O. Laing* [38 ILM 1323 (1999)], para.24.

On Convention on the Regime of Navigation on the Danube, Belgrade, 18 August 1948 [in force: 11 May 1949, 33 UNTS 181], see *Gabcikovo-Nagymaros Project Judgment*, ICJ Rep. 1997, 72; Oral Hearings, CR 97/2 [trans.], 37-38 [Counsel Kiss, 3 March 1997], CR 97/5 [trans.], 7-8 [6 March], CR 97/6, 46 [Counsel Sands, 7 March], CR 97/11, 20-21 [Counsel Watts, 27 March 1997]; *Legality of Use of Force (Provisional Measures) Orders* (in all 10 cases), para.3, ICJ Rep. 1999, 126, 261, 365, 424, 483, 544, 658, 763, 828, 918 <<http://www.icj-cij.org>>.

On 1994 Danube Convention, see Protection and Preservation of the Marine Environment *infra*.

See also Equity – Equitable Sharing of International Watercourses *infra*.

OVERFLIGHT

1958 TSC, ARTICLE 2; 1958 HSC, ARTICLE 2(4); 1982 LOSC, PART II, ARTICLE 2, PART III, ARTICLES 36, 38(2), 39(1) AND (3), PART IV, ARTICLE 53(1)-(3), PART V, ARTICLE 58, PART VII, ARTICLE 87(1)(B), PART XII, ARTICLES 212 AND 222:

Corfu Channel (Merits) Dissent Azevedo, ICJ Rep. 1949, 101; *Nuclear Tests (Interim Measures) Orders*, ICJ Rep. 1973, 103-104, 139-140, Dissents Ignacio-Pinto, 129, 163; *Nuclear Tests Judgments*, ICJ Rep. 1974, 258, 462, Dissent Gros, 281, Joint Dissents, 361, 370, 513, 522, Dissent Barwick, 425-426, 434, 438; Pleadings (Australia), 13-14 [Application], 43-44, 56 [Request], 330, 331 [Memorial], 514-522 [Counsel Byers, 9 July 1974], (New Zealand), 6-7 [Application], 49, 53, 58 [Request], 204, 209 [Memorial], 267 [Counsel Finlay, 10 July 1974]; *Aegean Sea Pleadings*, 90 [Counsel O'Connell, 26 Aug 1976], 421 [Counsel Weil, 13 Oct], 433-434, 437 [Counsel Economides, 13 and 16 Oct 1978]; *Tunisia/Libya (Merits) Dissent Oda*, ICJ Rep. 1982, 223-224; Pleadings, Vol.II, 464; *Great Belt Pleadings*, 576-577 [Denmark's Counter-Memorial]; *New Zealand v. France Dissent Weeramantry*, ICJ Rep. 1995, 326-327.

1977 *Anglo/French Decision* [18 ILM 397 (1979)], paras 163, 175; 1998 *Eritrea/Yemen (Phase I) Award*, paras 358-359, 507 <<http://www.pca-cpa.org>>;

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], para.32; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, paras 40, 42, UK Response, paras 67-68, 208; Oral Hearings, ITLOS/PV.01/08, 9-10 [Counsel Goldsmith, 20 Nov 2001], 29 [Counsel Plender] <<http://www.itlos.org>>.

On US Air Defense Identification Zones (ADIZs – since 1940), see *Gulf of Maine* Pleadings, Vol.II, 47 [US Memorial], Vol.III, 19, 168-169, 374, 374-380 [Canada's Counter-Memorial], Vol.V, 78 [Canada's Reply], Vol.VIII, 106 [Fig.18]; *Libya/Malta* Pleadings, Vol.IV, 36 [Counsel Briggs, 7 Dec 1984].

On Convention on International Civil Aviation, Chicago, 7 December 1944 [in force: 4 April 1947, 15 UNTS 295], see *Iran v. USA Aerial Incident of 3 July 1988 – Settlement of Disputes, Preventive Diplomacy C) infra*; *Spain v. Canada* Pleadings, 450 [Counsel Rodriguez, 9 June 1998]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.28 n.21; *Congo v. Uganda (Provisional Measures)* Order, para.7, ICJ Rep. 2000 (in press) <<http://www.icj-cij.org>>.

On International Air Services Transit Agreement, Chicago, 7 December 1944 [in force: 30 January 1945, 84 UNTS 389], see *IMCO* Pleadings, 61 [Liberia], 402 [L, 3 May 1960].

On International Air Transport Agreement, Chicago, 7 December 1944 [in force: 8 February 1945, 171 UNTS 387], see *IMCO* Pleadings, 61 [Liberia].

On 1971 Montreal Convention and 1988 Protocol, see Peaceful Uses of the Sea, Maritime Terrorism *infra*.

See also Continental Shelf – Superjacent Waters and Air Space *supra*; Protection and Preservation of the Marine Environment – Pollution From or Through the Atmosphere; and Peaceful Uses of the Sea – Nuclear Weapon Tests *infra*.

PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

1958 CSC, ARTICLE 5(7); 1958 HSC, ARTICLES 24-25

1972 UN STOCKHOLM DECLARATION AND ACTION PLAN

1982 LOSC, PREAMBLE, PART I, ARTICLE 1(1), PARTS II-IX, PART V, ARTICLE 56(1)(B)(III), PART XII, ARTICLES 192-237

1992 UNCED RIO DECLARATION AND AGENDA 21, CHAPTER 17

1994 AGREEMENT

Concept of the Protection of the Environment for Present and Future Generations

1972 Stockholm Principles 1-2; 1982 LOSC, Preamble; 1992 Rio Principle 3:

Nuclear Tests Pleadings (Australia), 377 [Memorial], (New Zealand), 210 [Memorial]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 276-277; *New Zealand v. France* Dissent Weeramantry, ICJ Rep. 1995, 341-342, Dissent Sir Geoffrey Palmer, 406, 419-420; *Nuclear Weapons (WHO)* Dissent Weeramantry, ICJ Rep. 1996, 141, (UNGA) Advisory Opinion, 241-242, para.29, as reaffirmed by *Gabcikovo-Nagymaros Project* Judgment, President S.M. Schwebel, ICJ Rep. 1997, 41, para.53, at 68, para.112, and at 78, para.140, Separate O. Vice-President Weeramantry, 102, 108, Dissent Herczegh, 176, 179; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.82, ICJ Rep. 1999, 1180 <<http://www.icj-cij.org>>.

Minors Oposa v. Secretary of the Department of Environment and Natural Resources Decision of the Supreme Court of the Philippines, 33 ILM 173 (1994); *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, para.92; Oral Hearings, ITLOS/PV.01/06, 36 [Counsel Sands, 19 Nov 2001] (relying on the *Gabcikovo-Nagymaros Project* Judgment *supra*) <<http://www.itlos.org>>.

See also UNGA Resolution 55/2 on United Nations Millenium Declaration of 8 September 2000, reaffirming commitment for the principles of sustainable development, including those set out in the UNCED Agenda 21 (para.22).

Obligation to Protect and Preserve the Marine Environment

1958 HSC, Articles 24-25; 1972 Stockholm Principle 7; 1982 LOSC, Articles 192-193; 1992 Rio Principle 2; 1994 Agreement:

Nuclear Tests (Interim Measures) Orders, ICJ Rep. 1973, 104-105, 140-141, Declarations Jiménez de Aréchaga, 108, 144, Declarations Sir Garfield Barwick,

110, 147, Dissents Gros, 122, 156-157, Dissents Ignacio-Pinto, 130-131, 163; *Nuclear Tests* Judgments, ICJ Rep. 1974, 258-260, 461-464, Separate Os Petren, 303-306, 488-490, Joint Dissents, 360-363, 512-514, Dissents Barwick, 389, 425, 431-439, 525; *Nuclear Tests* Pleadings (Australia), 8-14 [Application], 43-57 [Request], 149-152 [Fiji's Application], 337 [Memorial], 514-522 [Counsel Byers, 9 July 1974], (New Zealand), 5-9 [Application], 49-59 [Request], 89-92 [Fiji's Application]; *Gulf of Maine* Judgement, ICJ Rep. 1984, 344; Pleadings, Vol.III, 83, 197-198, 352 [Canada's Counter-Memorial], Vol.IV, 152-153, 166 [US Counter-Memorial]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 277-278; *New Zealand v. France Nuclear Tests (Request for an Examination of the Situation)* ICJ Rep. 1995, 288 – Order, 290-291, 294, 298-299, 306, paras 63-64 (referring to the 1986 UNEP SPREP Convention, *infra*), as reaffirmed by *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 242, para.30, and 243, para.32; *New Zealand v. France* Declaration Oda, ICJ Rep. 1995, 310, Separate O. Shahabuddeen, 312-313, Dissents Weeramantry, 319, 326-330, 339-358, Koroma, 369-379, Palmer, 384-392, 400-413; NZ Request (Examination of the Situation); Oral Hearings, CR 95/19, 51-53, 59-60 [Co-Agent McGrath, 11 Sep 1995], CR 95/20, 46 [Questions Weeramantry, 12 Sep], NZ and France's Written Replies of 15 Sep 1995; *Nuclear Weapons (WHO)* Advisory Opinion, ICJ Rep. 1996, 76-77, Dissents Weeramantry, 104, 139-143, Koroma, 175-187, (*UNGA*) Dissent Weeramantry, 452-471; Oral Hearings, CR 95/28, 57 [Attorney-General East/NZ, 9 Nov 1995], CR 95/31, 29 [Ambassador Slade/Samoa, also on behalf of the Marshalls and Solomons, 13 Nov], CR 95/32, 65 [Sands/Solomons, 14 Nov 1995]; *Oil Platforms* Oral Hearings, CR 96/12, 55 [Counsel Lowenfeld, 16 Sep 1996]; *Gabcikovo* Judgment, ICJ Rep. 1997, 18, 31-37, 64-68, 73-74, 77-80, Separate O. Weeramantry, 88-119, Dissents Oda, 159-161, 168, Herczegh, 176-189; *Botswana/Namibia* Dissent Vice-President Weeramantry, ICJ Rep. 1999, 1179-1183, paras 80-90 <<http://www.icj-cij.org>>.

See also *Nauru v. Australia Certain Phosphate Lands in Nauru* case [Settlement of Disputes – Preventive Diplomacy B] *infra*, which dealt with the issue of environmental degradation, as referred to in the *Nuclear Tests* Dissent Weeramantry, ICJ Rep. 1995, 362 n.1, Dissent Palmer, 408; *East Timor* Judgment, ICJ Rep. 1995, 104, para.33, Dissent Weeramantry, 197-204; Oral Hearings, CR 95/3 [trans.], 17-19 [Counsel Dupuy, 31 Jan 1995], 73-74 [Co-Agent Teles], CR 95/4 [trans.], 69-71 [1 Feb], CR 95/6, 53 [Dupuy, 3 Feb], CR 95/14, 70 [Counsel Crawford, 16 Feb 1995].

The environmental (in general) claims of Yugoslavia in this respect were referred to in paras 1-7 of each of the ten *Legality of Use of Force (Provisional Measures)* Orders, as well as in Orders in the cases with Belgium, paras 34-35, Canada, paras 33-34, the Netherlands, paras 34-35, Portugal, paras 34-35, and the United Kingdom, paras 29-30; in Orders in the cases with France, Germany and

Italy, paras 21-22; and in *Yugoslavia v. Belgium* Dissent of Vice-President Weeramantry, applicable *mutatis mutandis* to his Dissents from Orders in the cases with Canada, the Netherlands and Portugal, ICJ Rep. 1999, 124, 259, 363, 422, 481, 542, 656, 761, 826, 916 <<http://www.icj-cij.org>>.

1977 *Anglo/French* Decision [18 ILM 397 (1979)], paras 163, 175; *United States – Import Prohibition of Certain Shrimp and Shrimp Products* Report AB-1998-4, WTO Appellate Body, President F. Feliciano, WT/DS58/AB/R, 12 October 1998, paras 67-68 [EC], paras 127-134, 168-171 [AB], 38 ILM 100 (1999); 94 AJIL 361 (2000); *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, Japan's Memorial, paras 119, 139 <<http://www.worldbank/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, President P.Ch. Rao, ITLOS Case No.10 <<http://www.itlos.org>>; 200-*Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

Sic utere tuo ut alienum non laedas

1972 Stockholm Principles 21-22; 1982 LOSC, Article 194(2); 1992 Rio Principles 2 and 13:

SS Lotus Dissent Moore, PCIJ Series A, No.10 (1927), 88, invoking 1887 *US v. Arjona* Judgment [120 US 479]; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 18, 22-23, Individual O. Alvarez, 44-46, Dissent Winiarski, 52-54 [invoking the *Lotus* Dissent Moore], Dissent Azevedo, 90; *Anglo/Norwegian Fisheries* Pleadings, Vol.II, 427, 430 [UK Reply]; *North Sea* Pleadings, Vol.II, 200 [Counsel Shigeru Oda, 5 Nov 1968]; *Nuclear Tests (Interim Measures)* Dissents Ignacio-Pinto, ICJ Rep. 1973, 130-131, 163; *Nuclear Tests* Judgments, ICJ Rep. 1974, 270, 475, Separate Os Gros, 276-277, 279, 288, 480, Separate Os Petren, 303-304, 488, Joint Dissents, 318-320, 361-363, 368-371, 500-502, 512-514, 520-523, Dissents de Castro, 388-389, 524, Dissent Barwick, 431-434; *Nuclear Tests* Pleadings (Australia), 49 [Request], 524 [Questions Sir Humphrey Waldock], 525-527 [Replies Byers, 11 July 1974], (New Zealand), 56 [Request], 291 [Questions Waldock, 11 July 1974], 429-431 [Replies Agent, 15 July 1974]; *Aegean Sea* Pleadings, 107 [Counsel O'Connell, 26 Aug 1976]; *Nicaragua v. USA (Merits)* Dissent Schwebel, ICJ Rep. 1986, 380-381; *Great Belt (Provisional Measures)* Separate O. Shahabuddeen, ICJ Rep. 1991, 32-33; *New Zealand v. France Nuclear Tests* Order, ICJ Rep. 1995, 290-291, 294, 298-299, Dissents Weeramantry, 327, 346-358, 362 n.1, Koroma, 370-371, 378-379, Palmer, 400-412; Oral Hearings, CR 95/20, 11-12 [Counsel Keith, 11 Sep 1995], CR 95/20 [transl.], 67-68, 73-74 [De Brichambaut], CR 95/21, 50 [Sir Arthur Watts]; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 241, para.27, and 242, para.29, as reaffirmed by *Gabcikovo-Nagymaros Project* Judgment, ICJ Rep. 1997, 41, para.53; *Nuclear Weapons (WHO)* Dissents

Weeramantry, ICJ Rep. 1996, 141-142, Koroma, 208, (*UNGA*) Dissents Vice-President Schwebel, 320-321, Shahabuddeen, 381-383, Weeramantry, 496, 502-506, 517, Koroma, 566-570; Oral Hearings, CR 95/34, 55 [15 Nov 1995, UK]; *Gabcikovo* Judgment, ICJ Rep. 1997, 39-46, 59, 73-74, Separate O. Weeramantry, 102, Dissents Oda, 160, Herczegh, 176, 193; *Legality of Use of Force (Provisional Measures)* Orders – see *Obligation to Protect and Preserve the Marine Environment supra*.

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, ITLOS Case No.10 <<http://www.itlos.org>>; 200- *Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

On 1941 *Trail Smelter* and 1956 *Lake Lanoux* Awards, see *infra*.

Environmental Impact Assessment/Notification/Consultation

1972 Stockholm Principle 18 and UNGA Resolutions 2995(XXVII)1972 and 3129(XXVIII)1973; 1982 LOSC, Part XII, Articles 198, 204-206 and 210(5), Part XVI, Article 302; 1992 Rio Principles 17-19:

Gulf of Maine Judgment, ICJ Rep. 1984, 282; Pleadings, Vol.II, 36-37 [US Memorial], Vol.III, 355-359 [Canada's Counter-Memorial], Vol.IV, 260, 265 [US Counter-Memorial], Vol.V, 65, 71-72, 114-115 [Canada's Reply], Vol.VI, 95 [Counsel Binnie, 4 April 1984], Vol.VII, 101 [Counsel Bowett, 5 May], 117 [Counsel Fortier, 5 May 1984]; *Great Belt* Oral Hearings, CR 91/14, 32 [Agent Magid, 5 July 1991]; *Nuclear Tests* Order, ICJ Rep. 1995, 290-291, 298-299, Dissents Weeramantry, 339, 344-358, Koroma, 368-370, Palmer, 401-407, 411-412; NZ Request and Further Request and France's Aide Mémoire (Examination of the Situation); *Nuclear Tests* Oral Hearings, CR 95/19, 27-28, 37-38 [Agent East, 11 Sep 1995], 60 [Counsel McGrath], 88 [Counsel Lauterpacht], CR 95/20, 10 [Counsel Keith, 12 Sep 1995], 23-43 [Co-Agent MacKay], 40-41 [Agent East], CR 95/20 [transl.], 67-68 [De Brichambaut]; *Gabcikovo* Judgment, ICJ Rep. 1997, 32-35, 44, 66-68, 73, 77-79, Separate O. Weeramantry, 111-115, Dissents Oda, 168, Skubiszewski, 233; Oral Pleadings, CR 97/9, 37-42 [Counsel McCaffrey, 25 March 1997].

EC Measures Concerning Meat and Meat Products (Hormones) Report AB-1997-4, WTO Appellate Body, President F. Feliciano, WT/DS26/AB/R-WT/DS48/AB/R, 16 January 1998, paras 26-31 [EC], 48-51 [USA], 65-67 [Canada], 89-91 [Australia], 178-209 and 253(j) [AB], defining the concept of risk assessment.

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, President P.Ch. Rao, ITLOS Case No.10 <<http://www.itlos.org>>; 200- *Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

On Article 34 of the 1957 EURATOM Treaty, see *Peaceful Uses of the Sea – Nuclear Weapon Tests infra*.

On Article 6(a) of Directive 80/836/EURATOM [OJEC L 246/1 (1980)], as amended by Directive 84/467/EURATOM [OJEC L 265/4 (1984) and C 267/211 (1991)], see *Nuclear Tests Dissent Koroma*, ICJ Rep. 1995, 370; NZ Request (Examination of the Situation), para.87; Oral Hearings, CR 95/18, 84-85 [Counsel Lauterpacht, 11 Sep 1995]; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, para.24, UK Response, paras 37, 55(2), 174, 189.

On Directive 96/29/EURATOM [OJEC L 159/114 (1996)], see 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, para.24, UK Response, paras 30, 55(2), 167-168, 174, 189; Oral Hearings, ITLOS/PV.01/07, 31, 37 [Counsel Goldsmith, 19 Nov 2001].

On European Community Council Directive 85/337/EEC on the Assessment of the Effects of Certain Public and Private Projects on the Environment of 27 June 1985 [OJEC L 175 (1985)], as amended by Directive 97/11/EEC, see 1995 NZ Request (Examination of the Situation), paras 88, 92; *Nuclear Tests* Oral Hearings, CR 95/20, 26 [Co-Agent MacKay, 12 Sep 1995]; *Gabcikovo* Separate O. Weeramantry, ICJ Rep. 1997, 111 n.78; Oral Hearings, CR 97/9, 39 n.54 [Counsel McCaffrey, 25 March 1997]; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, paras 70, 85, 87, 89, UK Response, paras 13(2), 172, 220; Oral Hearings, ITLOS/PV.01/07, 26-27 [Counsel Lord Goldsmith, 19 Nov 2001], ITLOS/PV.01/08, 23-24 [Counsel Plender, 20 Nov 2001] <<http://www.itlos.org>>. Cf. 1994 *R. v. Secretary of State* Judgment *infra*.

On the 1997 EIA Mox Plant Opinion of the EC Commission [OJEC C 68/03, C 291/9 (1997)], see 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Anderson, para.3; UK Response, paras 11, 36, 57, 183, 200, 220, 226(2) and Annex 3; Oral Hearings, ITLOS/PV.01/06, 22 [Counsel Fitzsimons, 19 Nov 2001], 30 [Counsel Sands], ITLOS/PV.01/07, 23, 32-33, 35-37 [Counsel Lord Goldsmith], ITLOS/PV.01/08, 7, 11, 34-35 [Goldsmith, 20 Nov 2001], ITLOS/PV.01/09, 19 [Counsel Wordsworth] <<http://www.itlos.org>>.

On the *R. (Friends of the Earth Ltd. and Greenpeace Ltd.) v. Secretary of State for the Environment, Food and Rural Affairs and Secretary of State for Health* Judgment of Justice Collins, High Court of Justice Administrative Court of 15 November 2001, see 2001 *Ireland v. UK Mox Plant (Provisional Measures)* UK Response, paras 47-49, 168 and Annex 9; Oral Hearings, ITLOS/PV.01/06, 26 [Counsel Fitzsimons, 19 Nov 2001], ITLOS/PV.01/07, 30, 33 [Counsel Goldsmith], ITLOS/PV.01/08, 28-29 [Counsel Plender, 20 Nov 2001] <<http://www.itlos.org>> On Appeal Court's Judgment of 7 December 2001, see <<http://www.rte.ie/news/2001/1207/sellafield.html>>.

Pollution from Land-Based Sources

1982 LOSC, Part XII, Articles 207, 212 and 213, 222:

Nuclear Tests Pleadings (Australia), 520 [Counsel Byers, 9 July 1974]; *Gabcikovo* Judgment, ICJ Rep. 1997, 18; *Spain v. Canada* Pleadings, 251 [Canada's Counter-Memorial].

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, ITLOS Case No.10 <<http://www.itlos.org>>; 200- *Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

Environmental Protection of Lakes and Rivers

Gulf of Maine Pleadings, Vol.III, 360-361 [Canada's Counter-Memorial]; *Gabcikovo* Judgment, ICJ Rep. 1997, 18, 31-46, 59, 62, 64-68, 73-74, 77-80, Separate O. Weeramantry, 88-119, Dissents Oda, 159-161, 168, Herczegh, 176-189; *Legality of Use of Force (Provisional Measures)* Orders – see Obligation to Protect and Preserve the Marine Environment *supra*; *Kasikili/Sedudu Botswana/Namibia* Judgment, ICJ Rep. 1999, 1054, 1095, 1106-1108, paras 12, 76, 102-103, Dissent Vice-President Weeramantry, 1155, 1169, 1177-1195, paras 4-5, 47, 76-119 <<http://www.icj-cij.org>>.

200- *France/Netherlands* Award [1976 Rhine Convention, 16 ILM 265 (1977)], President K. Skubiszewski (Poland), Judges G. Guillaume (France/ICJ) and P.H. Kooymans (NL/ICJ) <<http://www.pca-cpa.org>>.

Pollution from Sea-Bed Activities

1958 CSC, Article 5(7); 1982 LOSC, Part V, Article 56(1)(b)(iii), Part XII, Articles 208 and 214:

Gulf of Maine Judgment, ICJ Rep. 1984, 279, 344; Pleadings, Vol.I, 106-107, 162 [Canada's Memorial], Vol.II, 34-38 [US Memorial], Vol.III, 58, 137, 170, 352-361 [Canada's Counter-Memorial], Vol.IV, 152-153, 166, 259-271 [US Counter-Memorial], Vol.V, 64-65, 342-343 [Canada's Reply], 440 [US Reply], Vol.VI, 450-455 [Counsel Colson, 19 April 1984], Vol.VII, 117, 123-124 [Counsel Fortier, 5 May], 154, 269 [Agent Robinson, 9 and 11 May], 192 [Counsel Stevenson, 9 May 1984]; *Great Belt* Pleadings, 511, 522 [Denmark's Counter-Memorial]; *Oil Platforms* Oral Hearings, CR 96/14, 17 [Counsel Zeinoddin, 19 Sep 1996]; *Spain v. Canada* Pleadings, 251 [Canada's Counter-Memorial].

Pollution from Activities in the Area

1982 LOSC, Part XII, Articles 209 and 215; 1994 Agreement:

New Zealand v. France Nuclear Tests (Interim Measures) Order, ICJ Rep. 1973, 139-140; Pleadings (Australia), 519 [Counsel Byers, 9 July 1974], (NZ), 7, 8 [Application], 49, 55, 77 [Request], 204 [Memorial]; *New Zealand v. France* Dissent Weeramantry, ICJ Rep. 1995, 326.

Pollution by Dumping

1982 LOSC, Part I, Article 1(1)5, Part XII, Articles 210 and 216:

Nuclear Tests Pleadings (Australia), 519 [Counsel Byers, 9 July 1974]; *Gulf of Maine* Pleadings, Vol.I, 35 n.7 [Canada's Memorial], Vol.III, 355 [Canada's Counter-Memorial], Vol.VII, 192 [Counsel Stevenson, 9 May 1984]; *Great Belt* Pleadings, 156 [Agent Fergo, 2 July 1991]; *New Zealand v. France* Dissents Weeramantry, ICJ Rep. 1995, 343, 345, Koroma, 370-371; NZ Request (Examination of the Situation), paras 101-102; Oral Hearings, CR 95/20, 16-21 [Counsel Keith, 12 Sep 1995].

Nuclear-Powered Ships and Ships Carrying Dangerous Substances

1982 LOSC, Part II, Articles 22(2) and 23, Part XII, Articles 194(3)(b), 211 and 217:

IMCO Pleadings, 208-209 [Panama, *The Savannah*]; *Great Belt* Pleadings, 150 [Counsel de Arechaga, 2 July 1991], 247, 356 [Finland's Memorial], 529, 599, 616 [Denmark's Counter-Memorial]; *Nuclear Tests* Dissent Palmer, ICJ Rep. 1995, 388; *Nuclear Weapons (UNGA)* Dissent Vice-President Schwebel, ICJ Rep. 1996, 320.

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order and Pleadings, ITLOS Case No.10, President P. Ch. Rao <<http://www.itlos.org>>.

200- *Ireland v. UK Mox Plant* Award (PCA), Arbitrators: James Crawford (UK), Sir Arthur Watts (UK <<http://www.pca-cpa.org>>).

Pollution from Vessels

1958 HSC, Articles 24-25; 1982 LOSC, Article 94(4)(c) and (5)-(7), Article 194(3)(b), Articles 211 and 217-233:

IMCO Advisory Opinion, ICJ Rep. 1960, 170; *IMCO* Pleadings, 48-49, 52, 93 [Liberia], 257 [India] (See also High Seas, Nationality of Ships – Genuine Link *supra*); *Gulf of Maine* Pleadings, Vol.I, 35 n.7 [Canada's Memorial], Vol.III, 137 n.26, 359-360 [Canada's Counter-Memorial], Vol.V, 65, 342-343 [Canada's

Reply], 381, 532 [US Reply]; *Great Belt* Pleadings, 149-150 [Counsel de Arechaga, 2 July 1991]; *Gabcikovo* Oral Hearings, CR 97/10, 10-11 [Counsel McCaffrey, 26 March 1997].

1998 *Eritrea/Yemen (Phase I)* Award, President R.Y. Jennings, para.312 <<http://www.pca-cpa.org>>; *M/V Saiga* Judgment, President T.A. Mensah [38 ILM 1323 (1999)], para.105, Separate O. Laing, paras 38, 45, 47, 49; *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, Japan's Memorial, para.119 <<http://www.worldbank/icsid>>.

On IMO's role, see *Finland v. Denmark (Provisional Measures)* Declaration Tarassov, ICJ Rep. 1991, 24; Pleadings, 5, 24 [Finland's Application, para.15 and Annex 10], 115 [Co-Agent Koskenniemi, 1 July 1991], 145 [Counsel Gimsing, 2 July], 183 [Agent Gronberg, 4 July], 211-212, 218 [Agent Magid, 5 July 1991].

See also Settlement of Disputes – 1982 LOSC, Article 287(1)(d) *infra*.

Port State Jurisdiction

SS Lotus Judgment, PCIJ Series A, No.10 (1927) was precedential in its concerning a prosecution by a port state of a foreign-flagged vessel in respect of a collision on the high seas.

Cf. Access to and Jurisdiction and Treatment in Ports; High Seas – Status of Ships/Criminal Jurisdiction *supra*; Settlement of Disputes – Prompt Release of Vessels and Crews *infra*.

Pollution from or through the Atmosphere

1982 LOSC, Article 194(3)(a) and Articles 212, 222:

On 1963 Moscow Treaty, see Peaceful Uses of the Sea *infra*.

On on 1979 UN ECE Air Pollution Convention, 1985 UNEP Ozone Convention and 1992 UN Climate Convention, see *infra*.

See also Pollution From Land-Based Sources *supra*; Peaceful Uses of the Sea – Nuclear Weapon Tests *infra*.

Ice-Covered Areas

1982 LOSC, Article 234:

North Atlantic Ice Patrol (IMO SOLAS Convention, Chapter V) *IMCO* Pleadings, 113 [Liberia], 125 [USA], 191 [Panama], 271 [L, 26 April 1960], 325 [USA, 28 April 1960]. See also High Seas – 1912 *Titanic* disaster *supra*.

Gulf of Maine Pleadings, Vol.III, 358 [Canada's Counter-Memorial], Vol.IV, 153 n.3 [US Counter-Memorial]; *Denmark v. Norway* Judgment, ICJ Rep. 1993,

44, 72-73, 76, Separate Os Schwebel, 120, Weeramantry, 271; Oral Hearings, CR 93/2, 32-33 [Counsel Lynge, 12 Jan 1993], CR 93/7, 20-21 [Counsel Brownlie, 19 Jan 1993].

On 1999 *Sellers v. Maritime Safety Inspectors*, see *infra*.

See also Exclusive Economic (Fishery) Zone – Protection and Preservation of the Marine Environment, 1970 Canada's Arctic Waters Act and Optional Clause Declaration *supra*; Environmental Factors in Disputes Over Territorial Sovereignty in this section *infra*.

Precautionary Approach

1982 LOSC, Part II, Article 23; 1992 Rio Principle 15, and Agenda 21, Chapter 17, paras 17.1 and 17.22; 1995 SSA, Articles 5(c) and 6, and Annex II:

New Zealand v. France Nuclear Tests Order, ICJ Rep. 1995, 290, 298-299, Dissents Weeramantry, 342-344, Palmer, 407, 410-412; NZ Request and France's Aide-Mémoire (Examination of the Situation); *Nuclear Tests Oral Hearings*, CR 95/19, 37-38 [Agent East, 11 Sep 1995], CR 95/20 [transl.], 67-68, 71-73 [De Brichambaut, 12 Sep 1995], CR 95/20, 10, 15, 20-21 [Counsel Keith], 36-38 [Co-Agent MacKay], 40-41 [Agent East], 47 [Question 2 Shahabuddeen], NZ and France's Written Replies of 15 Sep 1995; *Nuclear Weapons (WHO) Dissent Weeramantry*, ICJ Rep. 1996, 138.

Gabcikovo-Nagymaros Project Judgment, ICJ Rep. 1997, 62, para.97, at 68, para.113, at 78, para.141; Oral Hearings, CR 97/9, 33-37 [Counsel McCaffrey, 25 March 1997]. The required precautionary measures should be construed as included into the Court's guidance concerning the future arrangements of the Parties. See ICJ Rep. 1997, 75-81 (Settlement of Disputes – Preventive Diplomacy A) *infra*).

EC Measures Concerning Meat and Meat Products (Hormones) Report AB-1997-4, WTO Appellate Body, President F. Feliciano, WT/DS26/AB/R-WT/DS48/AB/R, 16 January 1998, paras 16 [EC], 43 [USA], 60 [Canada], 120-125 and 253(c) [AB]; *US – Import Prohibition of Certain Shrimp and Shrimp Products* Report AB-1998-4, para.67 [Obligation to Protect and Preserve Marine Environment *supra*].

On a risk assessment, see EIA/Notification/Consultation *supra*.

Southern Bluefin Tuna (Provisional Measures) Order, President T.A. Mensah, ITLOS Cases Nos 3/4, 38 ILM 1624 (1999), paras 67, 70-71, 74, 77, 79-80, Joint Declaration, Separate Os Laing, paras 11-18, Shearer <<http://www.itlos.org>>; *Australia and New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 31, 33-34, 41(f) and 50; A/NZ Reply, paras 37, 68-70; Hearings, Vol.III [Question 1 of Arbitrators, 10 May], Written

Answers of the Parties to Question 1 [26 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, President P.Ch. Rao, ITLOS Case No.10, paras 71-76, 84, Joint Declaration Caminos, Yamamoto, Park, Akl, Marsit, Eiriksson and Jesus, Separate Os Treves, paras 8-9, Szekely; Ireland's Request & Statement, paras 48, 88, 96-105, 112, UK Response, paras 150, 183-184, 207-208; Oral Hearings, ITLOS/PV.01/06, 10, 13 [Agent O'Hagan, 19 Nov 2001], 30, 32-33, 40 [Counsel Sands], ITLOS/PV.01/08, 18 [Counsel Bethlehem, 20 Nov 2001], 25 [Counsel Plender] <<http://www.itlos.org>>; 200- *Mox Plant* OSPAR and Annex VII Awards <<http://www.pca-cpa.org>>.

Marine Biodiversity

1982 LOSC, Preamble, Part XII, Articles 192-196 and 237; 1992 Rio Agenda 21, Chapter 15, and Chapter 17, para.17.86; 1995 SSA, Article 5(g):

On European Community Council Directive 92/43/EEC on the Protection of Habitats of 21 May 1992 [OJEC L 206/1], see *Ireland v. UK Mox Plant (Provisional Measures)* Oral Hearings, ITLOS/PV.01/06, 23 [Counsel Fitzsimons, 19 Nov 2001] <<http://www.itlos.org>>.

On 1992 UNEP Convention on Biodiversity, see *infra*.

Erga Omnes Rights and Obligations

Reparation for Injuries Suffered in the Service of the United Nations Advisory Opinion, ICJ Rep. 1949, 183; *North Sea Judgment*, ICJ Rep. 1969, 20, para.14, and 28, para.35, Separate O. Ammoun, 102, Dissents Tanaka, 190, Morelli, 205; *North Sea Pleadings*, Vol.I, 507 [Common Rejoinder of Denmark/NL], Vol.II, 80, 99, 104-105, 109 [Counsel Sir Humphrey Waldock, 28 and 29 Oct 1968], 246 [Reply by Waldock to Questions Fitzmaurice, 8 Nov], 281 [Waldock, 11 Nov 1968]; *Fisheries Jurisdiction (Merits)* Declarations Nagendra Singh, ICJ Rep. 1974, 39, 212, Joint Separate Os, 45, 47, 217, 219, Separate O. Dillard, 55-56, 60, 61, Separate Os de Castro, 96, 225, Separate Os Waldock, 119-120, 227, Dissent Gros, 137; *Tunisia/Libya (Intervention)* Separate O. Oda, ICJ Rep. 1981, 32; *Libya/Malta (Intervention)* Separate O. de Arechaga, ICJ Rep. 1984, 70, Dissent Oda, 108-109.

Ethiopia v. South Africa; Liberia v. South Africa South West Africa (Preliminary Objections) and *(Second Phase)* Separate O. Jessup, ICJ Rep. 1962, 425-426, and 1966, 387-388, and *Belgium v. Spain Barcelona Traction, Light and Power Company, Limited (Second Phase)* Judgment, ICJ Rep. 1970, 32, paras 33-34, as relied upon by *Nuclear Tests* Judgments, ICJ Rep. 1974, 269, 474, Separate O. Gros, 288, 290, Dissents Petren, 303, 487-488, Dissents Petren,

310, 493, Joint Dissents Onyeama, Dillard, Jiménez de Aréchaga, and Sir Humphrey Waldock, 362, 370, 513-514, 521, Dissents de Castro, 386-387, 524, Dissent Barwick, 436-438; *Nuclear Tests Pleadings* (Australia), 326-330, 334-335, 343 [Memorial], (New Zealand), 205-208, 210, 211 [Memorial], 262-266 [Counsel Finlay, 10 July 1974]; *Nicaragua v. USA (Provisional Measures)* Dissent Schwebel, ICJ Rep. 1984, 197-198; *Portugal v. Australia East Timor Judgment*, ICJ Rep. 1995, 102, para.29, Dissents Weeramantry, 172, 202, 213-216, Skubiszewski, 244; Oral Hearings, CR 95/3 [trans.], 27 [Counsel Dupuy, 31 Jan 1995], CR 95/5, 25-26 [Counsel Higgins, 2 Feb], 46-48 [Co-Agent Teles], CR 95/8 [trans.], 26-33 [Counsel Pellet, 7 Feb 1995]; *New Zealand v. France Nuclear Tests Order*, ICJ Rep. 1995, 305, para.61, Dissent Palmer, 414-415; Oral Hearings, CR 95/21 [trans.], 17-18 [Dupuy, 12 Sep 1995]; *Nuclear Weapons (WHO)* Dissent Weeramantry, ICJ Rep. 1996, 140-143, (UNGA) Dissent Koroma, 573; Oral Hearings, CR 95/22, 68 [Australian Foreign Minister Evans, 30 Oct 1995], CR 95/25, 60 [Mexico, 3 Nov], CR 95/32, 64-65 [Solomon I., 14 Nov 1995].

Gulf of Fonseca (Intervention) Judgment, ICJ Rep. 1990, 120; *Great Belt Pleadings*, 225 [Agent Lehmann, 5 July 1991]; *Denmark v. Norway Separate O. Oda*, ICJ Rep. 1993, 100, 110; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Preliminary Objections)* Judgment, ICJ Rep. 1996, 616, para.31; *Gabcikovo Judgment*, ICJ Rep. 1997, 62, Separate O. Weeramantry, 117-118; *Spain v. Canada (Jurisdiction)* Dissent Vereshchetin, ICJ Rep. 1998, 575, para.11; *Yugoslavia v. USA Legality of Use of Force (Provisional Measures)* Separate Os Oda, ICJ Rep. 1999, para.22 at 154, 288, 387, 452, 513, 566, 686, 792, 859, 943 Dissent Kreca, para.9 at 144, 346, 415, 474, 535, 630, 744, 824, 905, 963, (in all 10 Orders); *Pakistan v. India (Jurisdiction)* Dissent Pirzada, para.89, ICJ Rep, 2000 (in press); *Qatar v. Bahrain (Merits)* Dissent Torres Bernardez, paras 363 [de Visscher], 555, ICJ Rep. 2001 (in press); *Indonesia/Malaysia (Intervention)* Separate O. Franck, para.9, ICJ Rep. 2001 (in press); Oral Hearings, CR 2001/1, 10 [Counsel Reisman, 25 June 2001] <<http://www.icj-cij.org>>.

1998 *Eritrea/Yemen (Phase I)* Award, para.153 <<http://www.pca-cpa.org>>; *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, A/NZ Reply, para.26, Hearings, Vol.I [Counsel Rosenne, 7 May 2000] <<http://www.worldbank.org/icsid>>.

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On EURATOM Treaty of 25 March 1957 [in force: 1 January 1958, 51 AJIL 955 (1957)], see 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, ITLOS Case No.10, paras 40-50, Separate O. Anderson, paras 1-3; UK Response, paras 3, 11, 36, 57, 166-167, 218; Oral Hearings, ITLOS/PV.01/07, 9 [Counsel Lowe, 19 Nov 2001], 31, 35 [Counsel Lord Goldsmith],

ITLOS/PV.01/08, 24 [Counsel Plender, 20 Nov 2001], ITLOS/PV.01/09, 20-21 [Plender] <<http://www.itlos.org>>.

See also Peaceful Uses of the Sea – Nuclear Weapon Tests *infra*.

On African Convention on the Conservation of Nature and Natural Resources, Algiers, 15 September 1968 [in force: 16 June 1969, 1001 UNTS 3], see *Botswana/Namibia* Dissent Vice-President Weeramantry, para.113, ICJ Rep. 1999 (in press) <<http://www.icj-cij.org>>.

On Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil, Bonn, 9 June 1969 [in force: 9 August 1969, 704 UNTS 3; as superseded by Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, Bonn, 13 September 1983, in force: 1 September 1989, Cmnd.9104], see *Gulf of Maine* Pleadings, Vol.III, 170 [Canada's Counter-Memorial].

On Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, 2 February 1971 [in force: 21 December 1975, 11 ILM 963 (1972)] and Protocol, Paris, 3 December 1982 [in force: 1 October 1986, 22 ILM 698 (1983)], see *Botswana/Namibia* Dissent Vice-President Weeramantry, paras 81 and 112, ICJ Rep. 1999, 1179, 1193; Oral Hearings, CR 99/6, 22 [Counsel Selepeng, 22 Feb 1999].

On Convention for the Prevention of Marine Pollution by Dumping From Ships and Aircraft, Oslo, 15 February 1972 [in force: 7 April 1974, 932 UNTS 3] and Protocol of 2 March 1983 [in force: 1 September 1989, Cmnd 8942], as superseded by the 1992 Paris Convention [*infra*], see *Great Belt* Pleadings, 156 [Agent Fergo, 2 July 1991], 348, 349 n.1 [Finland's Memorial], 594 [Denmark's Counter-Memorial].

On IMO Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London, 29 December 1972 [in force: 30 August 1975, 1046 UNTS 120; 11 ILM 1291 (1972), as Amended] and Protocol of 8 November 1996 [36 ILM 1 (1997)], see *Great Belt* Pleadings, 156 [Agent Fergo, 2 July 1991], 347 n.4, 349 n.1 [Finland's Memorial]; *Nuclear Tests* Dissent Palmer, ICJ Rep. 1995, 411; NZ Request (Examination of the Situation), para.102; Oral Hearings, CR 95/20, 16, 18 [Counsel Keith, 12 Sep 1995]; *Nuclear Weapons (UNGA)* Dissent Weeramantry, ICJ Rep. 1996, 455; *Spain v. Canada* Pleadings, 253 n.156 [Canada's Counter-Memorial].

On Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington, 3 March 1973 [in force: 1 July 1975, 27 UST 1087], as Amended on 22 June 1979 and 30 April 1983 [in force: 13 April 1987, TIAS 11079], see *Nuclear Weapons (UNGA)* Dissent Weeramantry, ICJ Rep. 1996, 455; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.81, ICJ Rep. 1999, 1179; Oral Hearings, CR 99/6, 22 [Counsel Selepeng, 22 Feb

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On Convention on the Protection of the Rhine Against Pollution by Chlorides, Bonn, 3 December 1976 [in force: 5 July 1985, 16 ILM 265 (1977)] and Protocol, Brussels, 25 September 1991 [in force: 1 Nov 1994], see *Pollution From Land-Based Sources – France/Netherlands* Award *supra*.

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On UNEP Convention for the Protection of the Mediterranean Sea Against Pollution and two Protocols on Pollution Emergencies and Ocean Dumping, Barcelona, 16 February 1976 [in force: 12 February 1978, 1102 UNTS 27; 15 ILM 290 (1976)], Land-Based Pollution Protocol, Athens, 17 May 1980 [in force: 17 June 1983, 19 ILM 869 (1980)], Protected Areas Protocol, Geneva, 3 April 1982 [in force: 23 March 1986], and Continental Shelf Protocol, Madrid, 14 October 1994, see *Libya/Malta* Pleadings, Vol.I, 30-31 [Libya's Memorial]; *Great Belt* Pleadings, 349 n.1 [Finland's Memorial]; *Spain v. Canada (Jurisdiction)* Dissent Bedjaoui, ICJ Rep. 1998, 548, para.87; *Botswana/Namibia* Dissent Vice-President Weeramantry, para.109, ICJ Rep. 1999 (in press) <<http://www.icj-cij.org>>.

On 10 June 1995, the 1976 Barcelona Convention – retitled into: for the Protection of the Marine Environment and the Coastal Region of the

Mediterranean – and its Dumping Protocol were amended, and the new Protocol on Specially Protected Areas and Biological Diversity was adopted [11 IJMCL 101 (1996); to supersede the 1982 Geneva Protocol]. On 1 October 1996, Protocol on Transboundary Movements of Hazardous Wastes, Izmir, was adopted.

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Pollution Emergencies and Ocean Dumping, Noumea, 25 November 1986 [in force: 22 August 1990, 26 ILM 38 (1987); 1982 UNTS 4], see *New Zealand v. France* Order, ICJ Rep. 1995, 290, para.5, 298-299, paras 34-35, 306, para.63, Dissents Weeramantry, 347, Koroma, 368, 369-371, Palmer, 388, 410-411; NZ Request (Examination of the Situation); *Nuclear Tests* Oral Hearings, CR 95/19, 26-28, 37 [Agent East, 11 Sep 1995], CR 95/20, 12-14, 17 [Counsel Keith, 12 Sep 1995], 30-35, 37 [Co-Agent MacKay], 41 [Agent East], [transl], 67-68 [De Brichambaut]; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 243, para.32; Oral Hearings, CR 95/28, 56-57 [NZ, 9 Nov 1995], CR 95/31, 26 [Samoa, 13 Nov], CR 95/32, 33 [Solomons, 14 Nov 1995]; *Southern Bluefin Tuna (Jurisdiction)* Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000], Vol.III [Question 9 of Arbitrators, 10 May], Written Answers of the Parties to Question 9 [26 May 2000] <<http://www.worldbank.icsid>>.

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Mackay, 12 Sep 1995]; *Gabcikovo* Oral Hearings, CR 97/2 [trans.], 12 n.11 [Agent Szenasi, 3 March 1997] <<http://www.icj-cij.org>>.

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See also Exclusive Economic (Fishery) Zone – Protection and Preservation of the Marine Environment, and Rational Conservation and Optimum Utilization of Fisheries; Equitable Maritime Boundary Delimitation – Economic Factors, Environmental Factors; Regime of Islands – Environmental Factors in Disputes over Territorial Sovereignty: and Fisheries *supra*; Use of Force in Enforcement at Sea; Settlement of Disputes – Standard of Preventing Serious Harm to the Marine Environment; Peaceful Uses of the Sea – Prohibition of Threat or Use of Force (Necessity and Countermeasures) and Nuclear Weapon Tests; Equity; and Relation to Other Conventions *infra*.

USE OF FORCE IN ENFORCEMENT AT SEA

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1995 SSA, ARTICLE 22(1)(F):**

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On 1935 *Canada/USA I'm Alone (The Wolcott, The Dexter)* Award [RIAA III, 1609; 29 AJIL 296, 326 (1935); 54 AJIL 89 (1960); No.357/Stuyt], see *South West Africa (Preliminary Objections)* Separate O. Jessup, ICJ Rep. 1962, 425; *Barcelona Traction (Second Phase)* Separate O. Fitzmaurice, ICJ Rep. 1970, 79 n.24; *Nuclear Tests Pleadings* (Australia), 328 [Memorial]; *Spain v. Canada Pleadings*, 622 [Counsel Willis, 17 June 1998] <<http://www.icj-cij.org>>; *M/V Saiga* Judgment [38 ILM 1323 (1999)], para.156; Memorial of Saint Vincent and the Grenadines, paras 97, 170, 174, 197, Counter-Memorial of Guinea, paras 75-76, 151, 192, Reply of Saint Vincents, para.198, Rejoinder of Guinea, para.153 n.198, paras 163-164; Oral Hearings ITLOS PV.99/1, 12 [Agent Joseph, 8 March 1999], 99/17, 19 [Counsel Plender, 19 March 1999] <<http://www.itlos.org>>.

On 1962 *Denmark/UK The Red Crusader (The Niels Ebbesen)* Report of the Commission of Inquiry [35 ILR 485; No.C 5/Stuyt], see *Spain v. Canada Fisheries Jurisdiction Pleadings*, 622 [Senior Counsel Willis, 17 June 1998] [<http://www.icj-cij.org>]; *M/V Saiga* Judgment [38 ILM 1323 (1999)], para.156; Memorial of Saint Vincent and the Grenadines, paras 97, Counter-Memorial of Guinea, paras 148, 151-152 <<http://www.itlos.org>>.

See also Settlement of Disputes – Disputes Concerning Military Activities and Law Enforcement, and Involvement of the UN Security Council; Peaceful Uses of the Sea – Prohibition of Threat or Use of Force (Necessity and Countermeasures) *infra*.

MARINE SCIENTIFIC RESEARCH AND TECHNOLOGY TRANSFER

1958 CSC, ARTICLE 5(1)

1982 LOSC, PART XIII, ARTICLES 238-265, PART XIV, ARTICLES 266-278;

FINAL ACT ANNEX VI

1994 AGREEMENT

1995 SSA, ARTICLE 14, AND ANNEX I

Development of Marine Scientific Research

Legal Status of Eastern Greenland PCIJ Series A/B, No.53 (1933) – Judgment, 40-41, 62-63; *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 16, 38-39, 58-59, 61 [Memorial of Denmark], 226-229, 261-262, 269-278, 283-284 [Norway's Counter-Memorial], No.63, 1073-1077 [Norway's Rejoinder], No.66, 2768

[Agent Steglich-Petersen, 24 Nov 1932], 2960-2966 [Counsel Rygh, 5 Dec 1932]; *Minquiers and Ecrehos* ICJ Rep. 1953, 47 – Judgment, 70; Pleadings, Vol.I, 401 [France’s Counter-Memorial], 557 [UK Reply], Vol.II, 184 [Counsel Harrison, 24 Sep 1953]; *Antarctica* Pleadings, 13-14, 18, 20-21, 22-23, 27-31, 53-60, 62-63, 66-67 [UK Applications]; *North Sea* Pleadings, Vol.I, 311 [NL Counter-Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 549, 589, Separate O. Bernardez, 669.

Other Relevant Jurisprudence

Fisheries Jurisdiction (Interim Measures) Orders, ICJ Rep. 1972, 17, 34, (*Merits*) Judgments, ICJ Rep. 1974, 7, 14, 26, 31, 34 (para.79(4)(e)), 194, 200, 206 (para.77(4)(e)), Declarations Nagendra Singh, 40, 213 [see also ICES *infra*]; Pleadings (UK), 463 [Counsel Silkin, 25 March 1974]; *Nuclear Tests (Interim Measures)* Orders, ICJ Rep. 1973, 105, 141, Declarations Sir Garfield Barwick, 110, 146, Dissent Ignacio-Pinto, 164; *Nuclear Tests* Judgments, ICJ Rep. 1974, 258, 462, Dissent Gros, 285-286, Joint Dissents, 368, 520; Pleadings (Australia), 12 [Application], 45-49 [Request], (NZ), 51 [Request]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 278-281, 305-307, 340-341; Pleadings, Vol.I, 56-57, 89-90 [Canada’s Memorial], Vol.II, 43-46 [US Memorial], Vol.III, 156-159, 162-165, 225, 343-345, 372-363 [Canada’s Counter-Memorial], Vol.IV, 137, 301-303 [US Counter-Memorial], Vol.V, 78, 104 [Canada’s Reply], 464-470 [US Reply], Vol.VI, 140 [Counsel Bowett, 5 April 1984], 278-279 [Counsel Stevenson, 12 April], 351-353 [Counsel Rashkow, 16 April 1984]; *New Zealand v. France* Order, ICJ Rep. 1995, 290, 298, Dissents Weeramantry, 328-330, 339-340, 348-358, Koroma, 366-367, Palmer, 401-405; 1995 NZ Request (Examination of the Situation).

1998 *Eritrea/Yemen Territorial Sovereignty and Scope of the Dispute (Phase I)* Award, paras 44, 52-53, 69, 256, 278-279, 334, 407-408 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

High Seas Freedom of Scientific Research

1958 HSC, Article 2; 1982 LOSC, Articles 87(1)(f), 238-244, 246(3):

Nuclear Tests Pleadings (Australia), 341 [Memorial]; *Aegean Sea* Pleadings, 89 [Counsel O’Connell, 25 Aug 1976].

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], para.32; 2000 *Australia and New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award [Fisheries *supra*] – experimental fishing programme (EFP), 39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>.

Scientific Research within the EEZ/CS

1958 CSC, Article 5(8); 1982 LOSC, Part V, Article 56(1)(b)(ii), Part XIII, Articles 246-255:

Aegean Sea (Interim Measures) Order, ICJ Rep. 1976, 4, 6-11, Separate O. Mosler, 25-26, Dissent Stassinopoulos, 35-40, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 6-8; Pleadings, 3-11 [Greece's Application], 63-66 [Request], 89-91, 107-110 [Counsel O'Connell, 25 Aug 1976], 128-131 [Counsel Pinto, 26 Aug], 141-142 [O'Connell, 27 Aug 1976]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 228; Pleadings, Vol.I, 39-45 [Tunisia's Memorial]; *Gulf of Maine* Pleadings, Vol.III, 343-345 [Canada's Counter-Memorial]; *Libya/Malta* Pleadings, Vol.I, 80-84 [Libya's Memorial], Vol.II, 19-20 [Libya's Counter-Memorial].

1998 *Eritrea/Yemen (Phase I)* Award, para.407-408 [40 ILM 900 (2001)]; *M/V Saiga* Separate O. Laing [38 ILM 1323 (1999)], para.49.

Fundamental Scientific Research

1958 CSC, Article 5(8); 1982 LOSC, Part VII, Article 87(1)(f), Part XIII, Article 246(3):

Aegean Sea Pleadings, 108-110 [Counsel O'Connell, 26 Aug 1976].

Transfer of Marine Technology

1982 LOSC, Part XIV, Articles 266-278:

Libya/Malta Pleadings, Vol.I, 480-482, 554-569 [Malta's Memorial], Vol.II, 68-71 [Libya's Counter-Memorial], Vol.III, 147-148 [Malta's Reply]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 259.

On International Council for the Exploration of the Sea (ICES), see *Fisheries Jurisdiction (Interim Measures)* Orders, ICJ Rep. 1972, 13, 17, 31, 35, (*Merits*) Separate O. Dillard, ICJ Rep. 1974, 53; Pleadings (UK), 73 [Request], 413 [map], 455-456 [Counsel Silkin, 25 March 1974], (FRG), 27 [Request], 244, 252 [Memorial (*Merits*)]; *Gulf of Maine* Pleadings, Vol.III, 154 [Canada's Counter-Memorial], Vol.V [Annex 89], Vol.VI, 97 [Counsel Binnie, 4 April 1984]; *Denmark v. Norway* Oral Hearings, CR 93/2, 50-52 [Counsel Trolle, 12 Jan 1993], CR 93/5, 53, 62 [Agent Tresselt, 15 Jan 1993]; *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Anderson, para.3 <<http://www.un.org/Depts/los/>>.

On El Nino, see *Gulf of Maine* Pleadings, Vol.IV, 80 [US Counter-Memorial]. Cf. UN Doc. A/55/99-E/2000/86 (2000) and UNGA Resolution 55/197 on

International Cooperation to Reduce the Impact of the El Nino Phenomenon of 20 December 2000.

On Jan Mayen's LORAN-C meteorological station, see *Equitable Maritime Boundary Delimitation – Denmark v. Norway case supra*.

On Scientific Research Installations or Equipment, see *Exclusive Economic (Fishery) Zone – Artificial Islands, Installations and Structures*; on Precautionary Approach, see *Protection and Preservation of the Marine Environment supra*.

See also *Equitable Maritime Boundary Delimitation – Economic Factors*; *Protection and Preservation of the Marine Environment – Precautionary Approach and EIA/Notification/Consultation supra*.

INTERNATIONAL SEA-BED AREA

**1982 LOSC, PART I, ARTICLE 1(1), PART XI, ARTICLES 133-191, PART XVII, ARTICLE 314, AND ANNEXES III AND IV; FINAL ACT ANNEX I
1994 AGREEMENT**

Speech of Ambassador Arvid Pardo (Malta) to the UNGA

[UN Doc. A/6695 (1967)] *North Sea Pleadings*, Vol.I, 353 [NL Counter-Memorial]; *Tunisia/Libya (Merits) Dissent Oda*, ICJ Rep. 1982, 212; *Denmark v. Norway Separate O. Vice-President Oda*, ICJ Rep. 1993, 98.

A Map of the US Congress Foreign Affairs Committee

[9th US Congress' First Session, House Report 999, at 88-89] *North Sea Pleadings*, Vol.II, 33-35 [Agent Jaenicke, 24 Oct], 127 [Agent Riphagen, 30 Oct 1968].

UN Sea-Bed Committee

North Sea Separate O. Ammoun, ICJ Rep. 1969, 100, 109 n.3, 111 n.4, 142, Dissent Sorensen, 249; *Pleadings*, 35 [Agent Jaenicke, 24 Oct 1968], 79 [Counsel Sir Humphrey Waldock, 28 Oct 1968], 126-128 [Agent Riphagen, 30 Oct], 172, 178 [Jaenicke, 4 Nov], 197-198 [Counsel Shigeru Oda, 5 Nov], 244 [Reply by Waldock to Questions Fitzmaurice, 8 Nov 1968]; *Fisheries Jurisdiction (Jurisdiction) Dissents Padilla Nervo*, ICJ Rep. 1973, 45, 90, (*Merits*) *Separate Os de Castro*, 97 n.3, 225; *Pleadings (FRG)*, 306 [Agent Jaenicke, 28 March 1974]; *Aegean Sea Pleadings*, 455 [Counsel O'Connell, 16 Oct 1978]; *Tunisia/Libya (Merits) Dissent Oda*, ICJ Rep. 1982, 161-162, 164, 171, 213-216;

Gulf of Maine Pleadings, Vol.VII, 154 [Agent Robinson, 9 May 1984]; *Libya/Malta (Merits)* Dissent Oda, ICJ Rep. 1985, 140.

Gulf of Maine Pleadings, Vol.VII, 148 [Agent Robinson, 9 May 1984]; *Libya/Malta* Pleadings, Vol.I, 480-482 [Malta's Memorial], Vol.II, 69 [Libya's Counter-Memorial]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 259; Oral Hearings, CR 93/1Corr., 16 [Agent Lehmann, 11 Jan 1993].

Canada/France (St. Pierre & Miquelon) Award, para.78 [31 ILM 1160, 1172 (1992)].

On 1994 Agreement on Part XI, see *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000] <<http://www.worldbank.org/icsid>>.

See also Protection and Preservation of the Marine Environment – Pollution From Activities in the Area *supra*; Privileges and Immunities of the LOSC Institutions *infra*.

SETTLEMENT OF DISPUTES

1958 HSFC, ARTICLES 9-12; 1958 DSP

1982 LOSC, PART XV, ARTICLES 279-299, PART XVI, ARTICLE 302,

ANNEXES V-VIII AND IX, ARTICLE 7; 1994 AGREEMENT, ANNEX (3,6)

1992 UNCED RIO DECLARATION AND AGENDA 21

1995 SSA, PART VIII, ARTICLES 27-32

Obligation to Settle Disputes by Peaceful Means

1945 United Nations Charter, Articles 2(3) and 33; 1982 LOSC, Article 279;

1992 Rio Principle 26, and Agenda 21, Chapter 39, para.39.10; 1995 SSA,

Article 27:

Interpretation of Judgments Nos 7 and 8 (Factory at Chorzow) Judgment, PCIJ Series A, No.13, 10-11 (1927); *Corfu Channel (Merits)* Dissent Krylov, ICJ Rep. 1949, 75; *Anglo/Norwegian Fisheries* Individual O. Alvarez, ICJ Rep. 1951, 151; *North Sea* Judgment, ICJ Rep. 1969, 34, para.50, 36, para.55, 47, para.86, Separate O. Padilla Nervo, 88, 92, 98, 99, Separate O. Ammoun, 146, Dissent Morelli, 216; *North Sea* Pleadings, Vol.I, 181 [Denmark's Counter-Memorial], Vol.II, 70 [Agent Riphagen, 28 Oct 1968]; *Fisheries Jurisdiction (Jurisdiction)* Judgments, ICJ Rep. 1973, 10-16, 21, 56-60, (*Merits*) Judgments, ICJ Rep. 1974, 25, 26, 194, Declarations Nagendra Singh, 40, 213, Separate O. Dillard, 67, Separate Os de Castro, 95, 102, 225, Separate Os Waldock, 125, 227, Dissent Gros, 143, 148-149; *Nuclear Tests* Judgments, ICJ Rep. 1974, 270-272, 476-477, *as reaffirmed* by *New Zealand v. France* Order, ICJ Rep. 1995, 304, para.56, Declaration Vice-President Schwebel, 309, Separate O. Shahabuddeen, 312-316,

Dissent Palmer, 416-420; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 6, 11-13, Dissent Stassinopoulos, 35-36, (*Jurisdiction*) Judgment, ICJ Rep. 1978, 38; Pleadings, 107, 115, 117 [Counsel O'Connell, 25 and 26 Aug 1976], 322-323 [9 Oct 1978]; *Tunisia v. Libya (Revision)* Judgment, ICJ Rep. 1985, 217-218; *Gulf of Maine* Judgment, ICJ Rep. 1984, 266; Pleadings, Vol.IV, 99-100 [US Counter-Memorial]; *Libya/Malta (Intervention)* Judgment, ICJ Rep. 1984, 20, Separate O. de Arechaga, 63; *Guinea-Bissau v. Senegal Arbitral Award* Separate O. Lachs, ICJ Rep. 1991, 95, Dissent Aguilar and Ranjeva, 120-121; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 555, Separate O. Bernardez, 658-659; *Denmark v. Norway* Separate O. Shahabuddeen, ICJ Rep. 1993, 204-210; *Qatar v. Bahrain (Jurisdiction and Admissibility)* Dissent Shahabuddeen, ICJ Rep. 1995, 51-52; *East Timor* Judgment, ICJ Rep. 1995, 99-100; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 233-236; *Bosnia and Herzegovina v. Yugoslavia (Preliminary Objections)* Judgment, ICJ Rep. 1996, 614-615; *Lockerbie (Preliminary Objections)* Judgments, ICJ Rep. 1998, 17 [*Libya v. UK*], 122-123 [*Libya v. USA*], Dissents President Schwebel, 65-66, 156-157; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 314-315, Separate O. Kooymans, 356-357; *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 456, para.56, Separate O. Kooymans, 492, para.10; *Yugoslavia v. Belgium* (para.48), *Yugoslavia v. Canada* (para.44), *Yugoslavia v. France* (para.36), *Yugoslavia v. Germany* (para.35), *Yugoslavia v. Italy* (para.36), *Yugoslavia v. Netherlands* (para.48), *Yugoslavia v. Portugal* (para.47), *Yugoslavia v. Spain* (para.37), *Yugoslavia v. UK* (para.40), and *Yugoslavia v. USA* (para.31) *Legality of Use of Force (Provisional Measures)* Orders, and Declarations Koroma (all ten Orders), ICJ Rep. 1999 124, 259, 363, 422, 481, 542, 656, 761, 826, 916 <<http://www.icj-cij.org>>.

2000 *Southern Bluefin Tuna (Jurisdiction and Admissibility)* Award, President S.M. Schwebel, 39 ILM 1359 (2000), paras 48, 53, 67-71, Separate O. Keith; Japan's Memorial, paras 110-115, A/NZ Reply, paras 42-53, 96, Hearings, Vol.I [Counsels Rosenne, Lowe, 7 May 2000], Vol.II [Counsels Burmester, Mansfield, Agent Caughley, 8 May], Vol.IV [Counsel Crawford, 11 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Vice-President Nelson <<http://www.itlos.org>>.

On Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes, Geneva, 29 April 1958 [in force: 30 September 1962, 450 UNTS 169], see *North Sea* Dissent Sorensen, ICJ Rep. 1969, 256; 1977 *Anglo/French Continental Shelf* Decision [18 ILM 397 (1979)], paras 34, 42-44; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 189; *Passage Through the Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 13; Finland's Application, para.9; *Denmark v. Norway* Separate O. Vice-President Oda, ICJ Rep. 1993, 97; *East Timor* Application of Portugal, para.17; *Qatar v. Bahrain (Jurisdiction and*

Admissibility) Koroma, ICJ Rep. 1995, 70; *Oil Platforms (Preliminary Objection)* Dissent Oda, ICJ Rep. 1996, 895.

On 1982 LOSC, Part XV, see *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 321-322.

On dispute settlement procedure under the 1995 UN Fish Stocks Agreement [Fisheries *supra*], see *Spain v. Canada* Pleadings, 528 [Senior Counsel Willis, 12 June 1998]; 2000 *Southern Bluefin Tuna (Jurisdiction)* Award, paras 38(i) and 71, 39 ILM 1359 (2000); Japan's Memorial, paras 143, 172, A/NZ Reply, para.178, Hearings, Vol.I [Counsels Lauterpacht, Lowe, 7 May 2000], Vol.II [Counsels Burmester, Irwin, Jennings, 8 May 2000] <<http://www.worldbank.org/icsid>>.

See also UNGA Resolution 55/2 on United Nations Millennium Declaration of 8 September 2000, reaffirming commitment to the purposes and principles of the Charter of the United Nations and to resolution of disputes by peaceful means and in conformity with the principles of justice and international law (paras 1-4 and 30).

Definition of Obligation to Negotiate

Railway Traffic Between Lithuania and Poland Advisory Opinion, PCIJ Series A/B, No.42, 116 (1931), as reaffirmed by the *North Sea* Judgment, ICJ Rep. 1969, 47-48, paras 85-87, Separate O. President Bustamante y Rivero, 58, 65, Separate Os Padilla Nervo, 88, 92, 98, Ammoun, 146-147, Dissents Tanaka, 184-185, 195-196, Morelli, 216-217, Lachs, 219, Sorensen, 253-254; *North Sea* Pleadings, Vol.I, 393-394 [FRG Reply]; *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 31-33, 34 (para.79(2)-(3)) [UK v. Iceland], 201-202, 205-206 (para.77(2)-(3)) [FRG v. Iceland], Declarations Nagendra Singh, 41, 214, Separate O. Dillard, 67, 71, Separate Os de Castro, 104, 225, Dissent Gros, 143-146; *Fisheries Jurisdiction* Pleadings (UK), 373-374 [Memorial (Merits)]; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 12-13, (*Jurisdiction*) Separate O. Nagendra Singh, ICJ Rep. 1978, 47-48; Pleadings, 70 [Turkey's Response], 116-117 [Counsel O'Connell, 26 Aug 1976], 167 [Turkey's Statement], 324-326 [O'Connell, 9 Oct 1978]; *Tunisia/Libya (Merits)* Dissent Gros, ICJ Rep. 1982, 144-147, also invoking [145] the 1957 *Lake Lanoux* Award [24 ILR 101, esp.133-138], *Tunisia v. Libya (Revision)* Judgment, ICJ Rep. 1985, 229; *Gulf of Maine* Judgment, ICJ Rep. 1984, 291-293; Pleadings, Vol.IV, 99-100 [US Counter-Memorial], Vol.V, 402-403 [US Reply]; *UN Headquarters Agreement* Advisory Opinion, ICJ Rep. 1988, 33-34, invoking *Mavrommatis Palestine Concessions* Judgment, PCIJ Series A, No.2, 13 (1924); *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 406; Oral Hearings, C 4/CR 91/46, 14 [Counsel Lauterpacht, 11 June 1991]; *Nuclear Weapons (UNGA)* Advisory

Opinion, ICJ Rep. 1996, 263-264; *Gabcikovo-Nagymaros Project* Judgment, ICJ Rep. 1997, 66, paras 107-108, at 78, para.141, Separate O. Bedjaoui, 140-141, Dissent Herczegh, 190-191; *Cameroon v. Nigeria (Preliminary Objections)* Dissent Ajibola, ICJ Rep. 1998, 414; *Qatar v. Bahrain (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1994, 126; Oral Hearings, CR 2000/16, 39 [Counsel Weil, 15 June 2000].

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 53-55 and 67-71 [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>].

Preventive Diplomacy – Parallel Pursuance of Negotiations and Judicial Settlement

A) Generally:

Free Zones of Upper Savoy and the District of Gex (First Phase) Order, PCIJ Series A, No.22, 13 (1929), as reaffirmed by *North Sea* Judgment, ICJ Rep. 1969, 47, para.87, *Burkina Faso/Mali Frontier Dispute* Judgment, ICJ Rep. 1986, 577, para.46, and *Finland v. Denmark Passage Through the Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 20, paras 35-36, Declaration Tarassov, 23-24, Separate Os Vice-President Oda, 27, Broms, 38-39, (*Discontinuance*) Order, ICJ Rep. 1992, 348; *Nottebohm (Second Phase)* Judgment, ICJ Rep. 1955, 19-20; *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 146-147; Pleadings, Vol.II, 9-10 [Agent Jaenicke, 23 Oct 1968], 78-79 [Counsel Sir Humphrey Waldock, 28 Oct], 167 [Jaenicke, 4 Nov 1968]; *Trial of Pakistani Prisoners of War (Interim Protection)* Order, ICJ Rep. 1973, 347; *Fisheries Jurisdiction (Jurisdiction)* Dissents Padilla Nervo, ICJ Rep. 1973, 45, 90, (*Continuance Interim Measures*) Orders, 303, 314, Dissents Gros, 308-309, 317, (*Merits*) Judgment, ICJ Rep. 1974, 17-20, Declarations Nagendra Singh, 41-42, 214-215, Separate O. de Castro, 77, 104, Dissents Gros, 143-149, 238-239, Dissents Petren, 154-160, 241, Dissents Onyeama, 173, 249; *Western Sahara* Declaration Gros, ICJ Rep. 1975, 75-77; *Tunisia/Libya (Merits)* Dissent Gros, ICJ Rep. 1982, 153, (*Revision and Interpretation*) Judgment, ICJ Rep. 1985, 218; *Gulf of Maine* Dissent Gros, ICJ Rep. 1984, 385, 389; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 11-13, Separate Os President de Aréchaga, 16, Lachs, 19-20, Elias, 30, Dissent Stassinopoulos, 38-40, and (*Jurisdiction*) Judgment, ICJ Rep. 1978, 10-13, 12, para.12, as reaffirmed by *Nicaragua v. USA Military and Paramilitary Activities (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1984, 440, para.106, and *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 302-303, para.56; *Aegean Sea (Jurisdiction)* Separate Os Vice-President Nagendra Singh, ICJ Rep. 1978, 47-48, Lachs, 52-53; Pleadings, 116 [Counsel O'Connell, 26 Aug 1976]; *Lockerbie (Provisional Measures)* Dissents Bedjaoui, ICJ Rep. 1992, 49, 159, Dissents Ranjeva, 75, 182;

Gabcikovo-Nagymaros Project Judgment, ICJ Rep. 1997, 75-81; *Yugoslavia v. Belgium Legality of Use of Force (Provisional Measures)* Dissent Vice-President Weeramantry, ICJ Rep. 1999, 195-199, applicable *mutatis mutandis* to his Dissents from Orders in the cases with Canada, the Netherlands and Portugal; *Pakistan v. India Aerial Incident of 10 August 1999 (Jurisdiction)* Judgment, para.52, ICJ Rep. 2000 (in press); *Congo v. Belgium (Provisional Measures)*, paras 74-76, ICJ Rep. 2000 (in press); *Indonesia/Malaysia (Application of the Philippines for Permission to Intervene)* Separate O. Weeramantry, para.22, ICJ Rep. 2001 (in press) <<http://www.icj-cij.org>>.

Statements of President Sir Robert Jennings to the 46th and 48th UNGA – UN Doc. A/46/PV.44, 1-5 (8 November 1991), *reprinted in ICJ Yearbook 1991-1992* 205-212 (No.46); and UN Doc.A/48/PV.31, 1-5 (15 October 1993), *reprinted in ICJ Yearbook 1993-1994* 219-223 (No.48); Statements of President Stephen M. Schwebel to the 52nd, 53rd and 54th UNGA – UN Doc. A/52/PV.36, 1-5 (27 October 1997), *reprinted in 92 AJIL* 612-615 (1998), *ICJ Yearbook 1997-1998* 288-295 (No.52); UN Doc. A/53/PV.44, 1-5 (27 October 1998), *ICJ Communiqué* No.98/33, *reprinted in ICJ Yearbook 1998-1999* 316-323 (No.53); and UN Doc. A/54/PV.39, 1-5 (26 October 1999), *ICJ Communiqué* No.99/46, *reprinted in ICJ Yearbook 1999-2000* 282-288 (No.54) <<http://www.icj-cij.org>>.

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 67-71 [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>]; Oceans and the Law of the Sea – Report of the Secretary-General, UN Doc. A/56/58, 80-81 (2001).

For Statement of Australia's Minister of Foreign Affairs and Trade of 29 May 2001, announcing resolution of the dispute, see <http://www.dfat.gov.au/media/releases/foreign/2001/fa065_01.html>. Note also Australia's ratification on 23 December 1999 and New Zealand's ratification on 18 April 2001 of the 1995 UN Fish Stocks Agreement <<http://www.un.org/Depts/los>>.

2001 *Newfoundland and Labrador/Nova Scotia (Phase I)* Award, para.3.16 <<http://www.bissettmatheson.com/arbitration/>>; *Panama v. Yemen Chaisiri Reefer 2 (Discontinuance)* Order, ITLOS Case No.9 <<http://www.itlos.org>>.

B) Cases which were withdrawn after the Court rendered its first decision:

Passage Through the Great Belt (Provisional Measures) Order, ICJ Rep. 1991, 20, paras 35-36, and *(Discontinuance)* Order of President Sir Robert Jennings, ICJ Rep. 1992, 348 – see Straits Used for International Navigation *supra*.

See also *Nauru v. Australia Certain Phosphate Lands in Nauru (Preliminary Objections)* Judgment, ICJ Rep. 1992, 240, Separate O. Shahabuddeen, 270,

Dissent President Sir Robert Jennings, 301, Dissent Vice-President Oda, 303, Dissent Schwebel, 329, and (*Discontinuance*) Order, ICJ Rep. 1993, 322; Orders, ICJ Reports 1991, 3, 1992, 345, 1993, 316.

For Australia/Nauru Agreement of 10 August 1993, see 1770 UNTS 380; 32 ILM 1471 (1993). For UK/Australia Agreement of 24 March 1994, see 1820 UNTS 6. For Australia/New Zealand Agreement of 23 May 1994, see 1820 UNTS 14. See also 65 *British YIL* 625 (1994); 15 *Australian YIL* 652 (1994), and 16 *Australian YIL* 544, 577, 580 (1995). Cf. *East Timor* Oral Hearings, CR 95/7, 72-73 [Counsel Crawford, 6 Feb 1995].

Nicaragua v. Honduras Border and Transborder Armed Actions (Provisional Measures) Order, ICJ Rep. 1988, 9, (*Jurisdiction and Admissibility*) Judgment, 69, and (*Discontinuance*) Order, ICJ Rep. 1992, 222; *Paraguay v. USA Vienna Convention on Consular Relations (Provisional Measures)* Order, ICJ Rep. 1998, 248, Declaration President Schwebel, 259, Declarations Oda, 260, Koroma, 263, and (*Discontinuance*) Order, 426.

2001 *EC/Chile Swordfish* case – suspended after establishment of ITLOS Chamber, Case No.7, 40 ILM 475 (2001) and WTO Panel <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

C) Cases in which the normal course of the proceedings was suspended to allow for negotiations between the parties which finally led to the removal of these cases from the Court's General List:

Arbitral Award of 31 July 1989 (Provisional Measures) Order, ICJ Rep. 1990, 64, Judgment, ICJ Rep. 1991, 53; *Maritime Delimitation Between Guinea-Bissau and Senegal (Discontinuance)* Order, ICJ Rep. 1995, 423 – see *Equitable Maritime Boundary Delimitation supra*.

See also *Iran v. USA Aerial Incident of 3 July 1988* Orders, ICJ Rep. 1989, 132, 1990, 86, 1991, 6, 1992, 225, and (*Discontinuance*) Order, ICJ Rep. 1996, 9.

For the Partial Award of the Iran-US Claims Tribunal of 22 February 1996, see 35 ILM 553 (1996). Cf. *Oil Platforms* Oral Hearings, CR 96/12, 37 [Cdr Neubauer, 16 Sep 1996].

D) Cases in which the Court defined the fundamental legal parameters within which the parties pursued their further negotiations:

Fisheries Jurisdiction (Merits) Judgments, ICJ Rep. 1974, 33-35, paras 78-79 [*UK v. Iceland*], 202, 205-206, paras 69 and 77 [*FRG v. Iceland*]; *Gabcikovo-Nagymaros Project* Judgment, ICJ Rep. 1997, 78, para. 141, and 83, para.155(2)(B); Statement of President Stephen M. Schwebel to the 52nd UNGA [UN Doc. A/52/PV.36, 2-3 (27 October 1997), reprinted in 92 *AJIL* 613-614 (1998); *ICJ Yearbook 1997-1998* 288-295 (No.52) <http://www.icj-cij.org>];

Yugoslavia v. Belgium Legality of Use of Force (Provisional Measures) Dissent Vice-President Weeramantry, ICJ Reports 1999, 195-199, applicable *mutatis mutandis* to his Dissents from Orders in the cases with Canada, the Netherlands and Portugal <<http://www.icj-cij.org>>.

2000 *Southern Bluefin Tuna (Jurisdiction)* Award – see A) *supra*.

1982 LOSC, Articles 281 and 283 (No Settlement Reached):

Southern Bluefin Tuna (Provisional Measures) Order, ITLOS Cases Nos 3/4, President T.A. Mensah, para.60, 38 ILM 1624 (1999).

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 26-28, 34, 38-39, 41-43, 49, 53-55 [39 ILM 1359 (2000)]; Japan's Memorial, paras 155-156, A/NZ Reply, paras 10, 18-19, 88, 92, Oral Hearings, Vol.I [Counsel Rosenne, 7 May 2000], Vol.II [Agent Campbell, Counsels Burmester, Mansfield, 8 May], Vol.IV [Burmester, 11 May 2000] <<http://www.worldbank.org/icsid>>.

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, President P.Ch. Rao, ITLOS Case No.10, paras 54-60, Separate Os Anderson, para.1, Treves, para.4; Ireland's Request & Statement, paras 49, 134, UK Response, paras 5-7, 120-125, 136, 160-161, 186-196; Oral Hearings, ITLOS/PV.01/07, 7-8, 13-15 [Counsel Lowe, 19 Nov 2001], 23, 27-29 [Counsel Goldsmith], ITLOS/PV.01/08, 11, 15 [Counsel Bethlehem, 20 Nov 2001], 25-26 [Counsel Plender], ITLOS/PV.01/09, 15-17 [Lowe] <<http://www.itlos.org>>; 200- *Mox Plant* Award <<http://www.pca-cpa.org>>.

See also Equitable Maritime Boundary Delimitation – 1982 LOSC, Articles 74(2)/83(2) *supra*; Relation to Other Conventions *infra*.

1982 LOSC, Article 281 (Self-Contained Settlement Clauses):

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, 39 ILM 1359 (2000), paras 23, 26-28, 38-39, 41, 53, 56-65 and 70-71, Separate O. Sir Kenneth Keith; Japan's Memorial, paras 137-145 and Annex 47, Oral Hearings, Vol.I [Counsel Sir Elihu Lauterpacht, 7 May 2000], Vol.II [Counsels Crawford, Irwin, 8 May], Vol.III [Questions 6-9 of Arbitrators, Lauterpacht, 10 May], Vol.IV [Question 10 of Sir Kenneth Keith, Counsel Mansfield, 11 May], Written Answers of the Parties to Questions 6-10 [26 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate Os Vice-President Nelson, paras 5-7, Treves, para.4; Ireland's Request & Statement, para.138, UK Response, para.136; Oral Hearings, ITLOS/PV.01/07, 10-12 [Counsel Lowe, 19 Nov 2001], ITLOS/PV.01/08, 21-22 [Counsel Plender, 20 Nov 2001] <www.itlos.org>.

1982 LOSC, Article 282 (Optional Clause):

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, para.39(c) [39 ILM 1359 (2000)]; Oral Hearings, Vol.I [Counsel Rosenne, 7 May 2000], Vol.II [Counsel Burmester, 8 May], Vol.III [Question 2 of Arbitrators, Counsel Lowe, 10 May], Vol.IV [Burmester, 11 May], Written Answer of Japan to Question 2 [26 May 2000] <<http://www.worldbank.org/icsid>>; *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Treves, paras 3-4; UK Response, para.136 <<http://www.itlos.org>>.

1982 LOSC, Article 282 (General, Regional or Bilateral Agreements):

Southern Bluefin Tuna (Provisional Measures) Order, President T.A. Mensah, ITLOS Cases Nos 3/4, para.54 [38 ILM 1624 (1999)]; *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, para.36 [39 ILM 1359 (2000)], Hearings, Vol.III [Question 6 of Arbitrators, 10 May], Written Answer of Japan to Question 6 [26 May 2000] <<http://www.worldbank.icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, President P.Ch. Rao, ITLOS Case No.10, paras 38-53, 61, Separate Os Vice-President Nelson, Anderson, para.1, Treves, paras 1-6, Jesus; Ireland's Request & Statement, paras 135-139, UK Response, paras 1-4, 136, 160-185; Oral Hearings, ITLOS/PV.01/07, 8-13 [Counsel Lowe, 19 Nov 2001], ITLOS/PV.01/08, 15 [Counsel Bethlehem, 20 Nov 2001], 20-28 [Counsel Plender], ITLOS/PV.01/09, 14-15 [Lowe] <<http://www.itlos.org>>; 200- *Mox Plant* Award <<http://www.pca-cpa.org>>.

On 200- *Ireland v. UK* Arbitration (OSPAR Convention), see Protection and Preservation of the Marine Environment *supra*.

See also Relation to Other Conventions *infra*.

Choice of Procedure

1982 LOSC, Article 287(1) and Annexes VI-VIII:

Aegean Sea Pleadings, 323, 345-346 [Counsel O'Connell, 9 and 10 Oct 1978]; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 321-322.

Saint Vincent and the Grenadines v. Guinea M/V Saiga (Provisional Measures) Order, unanimous [37 ILM 1202 (1998)], and *M/V Saiga* Judgment, ITLOS Case No.2, President T.A. Mensah [38 ILM 1323 (1999) <<http://www.itlos.org>>].

2000 *Southern Bluefin Tuna (Jurisdiction)* Pleadings and Award, President S.M. Schwebel [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>].

2001 *EC/Chile Swordfish*, suspended ITLOS Case No.7, President P. Ch. Rao [40 ILM 475 (2001) <<http://www.itlos.org>>] and WTO Panel <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

Montreux (Riphagen) Clause/Arbitral Tribunal

1982 LOSC, Article 287(1)(c) and (5) and Annex VII:

M/V Saiga (Provisional Measures) Order, ITLOS Case No.2 [37 ILM 1202 (1998)] – before the parties agreed to transfer their dispute to the ITLOS, they contemplated bringing it to the arbitral tribunal under Annex VII in pursuance of that provision, and requested provisional measures under Article 290(5) changed subsequently into 290(1).

Southern Bluefin Tuna (Provisional Measures) Pleadings and Order, ITLOS Cases Nos 3 and 4 [38 ILM 1624 (1999) <<http://www.itlos.org>>]; *Southern Bluefin Tuna (Jurisdiction)* Pleadings and Award [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>].

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Pleadings and Order, ITLOS Case No.10 <<http://www.itlos.org>>; and 200- *Mox Plant* Award <<http://www.pca-cpa.org>>.

Provisional Measures

1982 LOSC, Article 290, and Annex VI (ITLOS Statute), Article 25; Article 41 ICJ Statute:

Denmark/Norway Legal Status of the Southeastern Territory of Greenland (Interim Measures) Order, PCIJ Series A/B, No.48, 284 (1932) [It was one of six cases in total where the Permanent Court considered the requests for interim measures and one of four cases where such requests were dismissed]; *United Kingdom v. Anglo-Iranian Oil Co. (Interim Protection)* Order, ICJ Rep. 1951, 89; *Switzerland v. USA Interhandel (Interim Protection)* Order, ICJ Rep. 1957, 105; *Fisheries Jurisdiction (Interim Protection)* Orders, ICJ Rep. 1972, 12 [*UK v. Iceland*], 30 [*FRG v. Iceland*], and (*Continuance of Interim Measures of Protection*) Orders, ICJ Rep. 1973, 302, 313; *Nuclear Tests (Interim Protection)* Orders, ICJ Rep. 1973, 99 [*Australia v. France*], 135 [*New Zealand v. France*]; *Pakistan v. India Trial of Pakistani Prisoners of War (Interim Protection)* Order, ICJ Rep. 1973, 328; *Greece v. Turkey Aegean Sea Continental Shelf (Interim Protection)* Order, ICJ Rep. 1976, 3; *USA v. Iran United States Diplomatic and Consular Staff in Tehran (Provisional Measures)* Order, ICJ Rep. 1979, 7; *Libya/Malta (Intervention)* Dissent Schwebel, ICJ Rep. 1984, 143; *USA v. Nicaragua Military and Paramilitary Activities (Provisional Measures)* Order, ICJ Rep. 1984, 169; *Burkina Faso/Mali Frontier Dispute (Provisional Measures)*

Order, ICJ Rep. 1986, 3; *Nicaragua v. Honduras Border and Transborder Armed Actions (Provisional Measures)* Order, ICJ Rep. 1988, 9 [in this case the request was withdrawn]; *Guinea-Bissau v. Senegal Arbitral Award of 31 July 1989 (Provisional Measures)* Order, ICJ Rep. 1990, 64; *Finland v. Denmark Passage Through the Great Belt (Provisional Measures)* Order, ICJ Rep. 1991, 12; *Questions of Interpretation and Application of the 1971 Montreal Convention Arising From the Aerial Incident at Lockerbie (Provisional Measures)* Orders, ICJ Rep. 1992, 3 [*Libya v. UK*], 114 [*Libya v. USA*]; *Bosnia and Herzegovina v. Yugoslavia Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Provisional Measures)* Orders, ICJ Rep. 1993, 3, 325; *New Zealand v. France Nuclear Tests (Request for an Examination of the Situation)* Order, ICJ Rep. 1995, 291-292, paras 8-9, 301, para.41, 306-307, para.67 and para.68(2), Declaration Vice-President Schwebel, 309, Dissent Weeramantry, 321-322, 330, 332-333, 339, 356, 358, Dissent Koroma, 373-374, 379-380, Dissent Palmer, 388-389, 394, 408; *Cameroon v. Nigeria Land and Maritime Boundary (Provisional Measures)* Order, ICJ Rep. 1996, 13; *Paraguay v. USA Vienna Convention on Consular Relations (Provisional Measures)* Order, ICJ Rep. 1998, 248; *Germany v. USA LaGrand (Provisional Measures)* Order, ICJ Rep. 1999, 9 <<http://www.icj-cij.org>>.

The ten *Legality of Use of Force (Provisional Measures)* Orders, ICJ Rep. 1999, 124 [*Yugoslavia v. Belgium*], 259 [*Yugoslavia v. Canada*], 363 [*Yugoslavia v. France*], 422 [*Yugoslavia v. Germany*], 481 [*Yugoslavia v. Italy*], 542 [*Yugoslavia v. Netherlands*], 656 [*Yugoslavia v. Portugal*], [*Yugoslavia v. Spain*], 826 [*Yugoslavia v. United Kingdom*], and 917 [*Yugoslavia v. USA*], provided the first instance of the Court's dismissal of the requests due to the lack of *prima facie* jurisdiction, which has previously always been recognized even when the Court ultimately dismissed the requests concerned. The cases with the United States and Spain were ordered to be removed from the General List, as the Court manifestly lacked jurisdiction to entertain those cases <<http://www.icj-cij.org>>.

Congo v. Uganda Armed Activities on the Territory of the Congo (Provisional Measures) Order, ICJ Rep. 2000 (in press); *Congo v. Belgium Arrest Warrant of 11 April 2000 (Provisional Measures)* Order, ICJ Rep. 2000 (in press); *Germany v. USA LaGrand* Judgment, President Gilbert Guillaume, paras 92-109, 128(2)(c) and (5), ICJ Rep. 2001 (in press); *Indonesia/Malaysia (Intervention)* Judgment, para.21, ICJ Rep. 2001 (in press) <<http://www.icj-cij.org>>.

Saint Vincent and the Grenadines v. Guinea M/V Saiga (Provisional Measures) Order, ITLOS Case No.2, unanimous, President T.A. Mensah, Declaration Vukas, Declaration Warioba, Separate O. Laing, 37 ILM 1202 (1998) <<http://www.itlos.org>>; *Southern Bluefin Tuna (Provisional Measures)* Order, President T.A. Mensah, ITLOS Cases Nos 3/4, Joint Declaration Vice-President Wolfum and Judges Caminos, Marotta Rangel, Yankov, Anderson and

Eiriksson, Declaration Warioba, Separate O. Laing, Separate O. Treves, Joint Separate P. Yamamoto and Park, Separate O. Shearer, Dissents Vukas, Eiriksson; as revoked by 2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 28, 30, 35, 66, 72(2), which recommended, para.70 *in fine*, that the parties abstain “from any unilateral act that may aggravate the dispute while its solution has not been achieved” [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>]; *Ireland v. UK Mox Plant (Provisional Measures)* Order, President Ch. Rao, ITLOS Case No.10, Joint Declaration Caminos, Yamamoto, Park, Akl, Marsit, Eiriksson and Jesus, Separate Os Vice-President Nelson, Judges Mensah, Anderson, Wolfrum, Treves, Jesus and Szekely <<http://www.itlos.org>>.

Standard of Preventing Serious Harm to the Marine Environment

1982 LOSC, Article 290(1):

Nuclear Tests (Interim Protection) Orders, Vice-President F. Ammoun Acting President concurring, ICJ Rep. 1973, 99 [*Australia v. France*], 135 [*New Zealand v. France*], as referred to in the *New Zealand v. France* Order and its Opinions, ICJ Rep. 1995, *supra*, set up the basis for that standard.

On the ICJ Chamber for Environmental Matters, see *Protection and Preservation of the Marine Environment supra*.

M/V Saiga (Provisional Measures) Separate O. Laing, paras 21, 25 n.42, para.36 [37 ILM 1218 (1998)]; 1999 *Eritrea/Yemen (Phase II)* Award, Annex I: Arbitration Agreement of 3 October 1996, Article 11(1) <<http://www.pca-cpa.org>>; *Southern Bluefin Tuna (Provisional Measures)* Order, President T.A. Mensah, ITLOS Cases Nos 3 and 4, [38 ILM 1624 (1999)]; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, President Ch. Rao, ITLOS Case No.10 <<http://www.itlos.org>>.

Provisional Measures Pending the Establishment of an Arbitral Tribunal

1982 LOSC, Article 290(5):

M/V Saiga (Provisional Measures) Order, ITLOS Case No.2 [37 ILM 1202 (1998)], were originally requested under Article 290(5), but after the parties agreed to transfer their dispute to the ITLOS, the provisional measures became an incidental phase thereof in pursuance of Article 290(1); *Southern Bluefin Tuna (Provisional Measures)* Order, ITLOS Cases Nos 3 and 4 [38 ILM 1624 (1999) <<http://www.itlos.org>>].

Cf. 2000 *Southern Bluefin Tuna (Jurisdiction)* Pleadings and Award [39 ILM 1359 (2000) <<http://www.worldbank.org/icsid>>].

2001 *Ireland v. UK Mox Plant (Provisional Measures)* Order, ITLOS Case No.10 <<http://www.itlos.org>>.

Cf. 200- *Ireland v. UK Mox Plant Award* <<http://www.pca-cpa.org>>.

Intervention

1982 LOSC, Annex VI (ITLOS Statute), Article 31; Articles 62 and 63 ICJ Statute:

France, Britain, Italy, Japan v. Germany SS Wimbledon (Question of Intervention by Poland) Judgment [unanimous], PCIJ Series A, No.1, 11 (1923), President B.C.J. Loder, Article 63; *Denmark v. Norway Legal Status of Eastern Greenland* case – since Iceland contemplated but abandoned intervention under Article 62 of the ICJ Statute, *Eastern Greenland Pleadings*, PCIJ Series C, No.67, 4081-4082, 4118-4119, *Eastern Greenland* Judgment referred to the factor of “the extent to which the sovereignty is also claimed by some other power”, PCIJ Series A/B, No.53, 46 (1933); *Corfu Channel (Merits)* Judgment, ICJ Rep. 1949, 15-17, Individual O. Alvarez, 49-51, Dissents Badawi Pacha, 58-60, Krylov, 68, Ecer, 116-117 – the alleged involvement of Yugoslavia did not form part of submissions of the parties and was not proved; *Anglo/Norwegian Fisheries* case – Iceland might have been contemplating intervention, but no measures to this effect were initiated; *Colombia/Peru Haya de la Torre* Judgment, ICJ Rep. 1951, 71, President J. Basdevant, Article 63; *North Sea* Judgment, ICJ Rep. 1969, 54, para.101(D)(3); Pleadings, Vol.II, 270 [Counsel Sir Humphrey Waldock, 11 Nov 1968]; *Monetary Gold Removed From Rome in 1943 (Preliminary Question)* Judgment, ICJ Rep. 1954, 32, Article 62; *Nuclear Tests (Application of Fiji for Permission to Intervene)* Orders, ICJ Rep. 1973, 320 [*Australia v. France*], 324 [*New Zealand v. France*], and ICJ Rep. 1974, 530 [*Australia v. France*], 535 [*New Zealand v. France*], President M. Lachs, Article 62; *Nicaragua v. USA Military and Paramilitary Activities (Declaration of Intervention of El Salvador)* Order, ICJ Rep. 1984, 215, President T.O. Elias, Article 63, (*Jurisdiction and Admissibility*) Judgment, 431.

Tunisia/Libya Continental Shelf (Application of Malta for Permission to Intervene) Judgment [unanimous], ICJ Rep. 1981, 3, President Sir Humphrey Waldock, Article 62, Separate Os Morozov, 22, Oda, 23, Schwebel, 35, (*Merits*) Judgment, ICJ Rep. 1982, 42, 62, 91, 93-94, para.133 B(1) and C(3), Dissent Oda, 249-251; *Canada/USA Gulf of Maine* Judgment, ICJ Rep. 1984, 246 – whereas no attempt at intervention appeared in the record of the case, possible interests of France might have been affected [cf. *Equitable Maritime Boundary Delimitation – 1992 Canada/France (St. Pierre & Miquelon)* Award *supra*]; *Libya/Malta Continental Shelf (Application of Italy for Permission to Intervene)* Judgment, ICJ Rep. 1984, 3, President T.O. Elias, Article 62, Separate Os Morozov, 30, Nagendra Singh, 31, Mbaye, 35, Jiménez de Aréchaga, 55, Dissent Vice-President Sette-Camara, 71, Dissents Oda, 90, Ago, 115, Schwebel, 131, Sir

Robert Jennings, 148, (*Merits*) Judgment, ICJ Rep. 1985, 22, 24-28, 53, 55, Separate O. Valticos, 104, 113, Dissents Mosler, 116-117, Oda, 129-131, 135, 137, Schwebel, 172-178, 179, 184; *Burkina Faso/Mali Frontier Dispute* Judgment, ICJ Rep. 1986, 578-580; *El Salvador/Honduras Land, Island and Maritime Frontier Dispute (Application by Nicaragua for Permission to Intervene)* Order, President M. Ruda, ICJ Rep. 1990, 3, and Judgment [unanimous], ICJ Rep. 1990, 92, Chamber's President J. Sette-Camara, Separate O. Oda, 138, (*Merits*) Judgment, ICJ Rep. 1992, 359-360, 580-610, Separate O. Bernardez, 712-731 – the first instance of granting a state (Nicaragua) permission to intervene as a non-party under Article 62 of the ICJ Statute.

Nauru v. Australia Certain Phosphate Lands in Nauru (Preliminary Objections) Judgment, ICJ Rep. 1992, 259-262, Separate O. Shahabuddeen, 292-300, Dissent President Sir Robert Jennings, 301-302, Dissent Schwebel, 329-343; *Denmark v. Norway* Separate O. Schwebel, ICJ Rep. 1993, 125; *Australia v. Portugal East Timor* Judgment, President M. Bedjaoui concurring, ICJ Rep. 1995, 100-105, Separate Os Oda, 113, Shahabuddeen, 119-127, Dissents Weeramantry, 156-170, Skubiszewski, 242-245; *New Zealand v. France Nuclear Tests (Request for an Examination of the Situation)* Order, President M. Bedjaoui, Articles 62 and 63 of the ICJ Statute, ICJ Rep. 1995, 292, para.11, 301, para.41, 306-307, para.67 and para.68(3), Dissents Weeramantry, 323, 356, 358-359, Koroma, 379-380, Palmer, 388-389; *Nuclear Weapons* Oral Hearings, CR 95/22, 68 [Foreign Minister Evans, 30 Oct 1995], CR 95/28, 55 [NZ Attorney-General East, 9 Nov 1995]; *Cameroon v. Nigeria (Preliminary Objections)* Judgment, President S.M. Schwebel, ICJ Rep. 1998, 286, 310-311, 322-325, Separate Os Higgins, 346-347, Kooymans, 360-361, Dissent Ajibola, 400-401, 415, (*Application of Equatorial Guinea for Permission to Intervene*) Order [unanimous], President S.M. Schwebel, ICJ Rep. 1999, 1029 <<http://www.icj-cij.org>>; Oral Hearings, CR 98/2, 40-44, 48-61 [Counsel Crawford, 3 March 1998], CR 98/4 [trans.], 8-9 [Counsel Cot, 6 March 1998], CR 98/4, 56-59 [Counsel Highet]; *Qatar v. Bahrain (Merits)* Judgment, ICJ Rep. 2001 (in press), paras 221-222, 249-251; *Indonesia/Malaysia (Application of the Philippines for Permission to Intervene)* Judgment, President G. Guillaume, ICJ Rep. 2001 (in press), Article 62; Oral Hearings, CR 2001/1-4 [25-29 June 2001] <<http://www.icj-cij.org>>.

On differences between the ICJ and ITLOS Statutes, see *Libya/Malta (Intervention)* Separate O. de Arechaga, ICJ Rep. 1984, 64, Dissent Vice-President Sette-Camara, 88-89.

1917 *El Salvador v. Nicaragua Gulf of Fonseca* Judgment – see Equitable Maritime Boundary Delimitation *supra*; 1977 *Anglo/French Continental Shelf* Decision [18 ILM 397 (1979)], paras 23-29; 1985 *Guinea/Guinea-Bissau* Award, paras 93-94, 100-104, 108 [25 ILM 291, 294-295, 297 (1986)]; *M/V Saiga*

(*Provisional Measures*) Separate O. Laing [37 ILM 1218 (1998)], para.24; 1999 *Eritrea/Yemen Maritime Delimitation (Phase II)* Award, President R.Y. Jennings, paras 39, 44-46, 136, 149, 164, 167 [40 ILM 983 (2001) <<http://www.pca-cpa.org>>]; *Southern Bluefin Tuna (Provisional Measures)* Order, President T.A. Mensah, ITLOS Cases Nos 3/4, para.76 [38 ILM 1624 (1999)]; 2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 22 and 69 [39 ILM 1359 (2000)]; Japan's Memorial, paras 17, 97, 163, 178-180, A/NZ Reply, paras 134, 173-176, Hearings, Vol.I [Counsel Lauterpacht, 7 May 2000], Vol.II [Counsel Serdy, 8 May 2000] <<http://www.worldbank.org/icsid>>.

Interpretation or Application

1982 LOSC, Annex VI (ITLOS Statute), Article 32; Article 60 (Interpretation) and Article 61 (Revision) ICJ Statute:

Interpretation of Judgments Nos 7 and 8 (Factory at Chorzów) Judgment, Article 60, PCIJ Series A, No.13 (1927); *Interpretation of Article 179, Annex, Paragraph 4 of the Peace Treaty of Neuilly* Judgments, Article 60, PCIJ Series A, No. 3 (1924) and No.4 (1925); *Colombia/Peru Asylum (Request for Interpretation of the 1950 Judgment)* Judgment, President J. Basdevant, Article 60, ICJ Rep. 1950, 395, Dissent Caicedo Castilla, 404; *North Sea* Separate O. Jessup, ICJ Rep. 1969, 84; *Tunisia/Libya Continental Shelf (Merits)* Dissent Gros, ICJ Rep. 1982, 146-147, (*Application for Revision and Interpretation*) Judgment [unanimous], ICJ Rep. 1985, 192, President Nagendra Singh, Separate Os Ruda, 232, Oda, 236, Schwebel, 246, de Bastid, 247 – the first instance of finding the (Tunisian) request for interpretation under Article 60 of the ICJ Statute partly admissible, and the only instance in the Court's jurisprudence of the request for revision under Article 61, which request was found inadmissible; *Qatar v. Bahrain (Jurisdiction and Admissibility)* Dissent Shahabuddeen, ICJ Rep. 1995, 61; *New Zealand v. France Nuclear Tests (Request for an Examination of the Situation)* Order, President M. Bedjaoui, Articles 60 and 61, ICJ Rep. 1995, 295, para.23, 299, para.36, 300, para.40, 301, para.43, 303, paras 50-52, Declaration of Vice-President Schwebel, 309, Separate O. Shahabuddeen, 312, Dissents Weeramantry, 320-321, Koroma, 369, 372, 375-376, Palmer, 393, 399; *Nigeria v. Cameroon Land and Maritime Boundary (Request for Interpretation of the Cameroon v. Nigeria Judgment of 11 June 1988)* Judgment, President S.M. Schwebel, ICJ Rep. 1999, 31 – the first instance of a request for the interpretation of a judgment on preliminary objections which the Court found as falling under Article 60 which makes no distinction as to the type of judgment that can be the object of a request for interpretation; *Yugoslavia v. Bosnia and Herzegovina (Revision of the 1996 Judgment)* – Yugoslavia's Application for Revision of the 1996 *Bosnia and Herzegovina v. Yugoslavia (Preliminary*

Objections) Judgment, ICJ Rep. 1996, 595, *ICJ Press Release* No.2001/12, 24 April 2001 <<http://www.icj-cij.org>>.

On 1910 *USA/Venezuela Orinoco Steamship Company Award* [PCA 1999, 69; *Stuyt/No.292*; 3 *AJIL* 436, 985 and *Supp.* 224 (1909); 4 *AJIL* 676 (1910); 5 *AJIL* 32, 35, 230 (1911); 18 *RGDIP*, 166 (1911); 24 *AJIL* 74 (1930), see *Tunisia v. Libya* Pleadings, 173 [Counsel Dupuy, 14 June 1985], 226 [Counsel Queneudec, 18 June 1985]; *Guinea-Bissau v. Senegal Arbitral Award Separate O. Shahabuddeen*, ICJ Rep. 1991, 110-111, *Dissent Weeramantry*, 160, 163, 168; *Oral Hearings*, CR 91/3, 68-69 [Counsel Highet, 4 April 1991]; *Denmark v. Norway Separate O. Weeramantry*, ICJ Rep. 1993, 231.

On 1914 *Costa Rica/Panama Boundary Award*, see *Equitable Maritime Boundary Delimitation infra*.

On 1978 *Anglo/French Continental Shelf Decision* [54 *ILR* 213] and 1995 *Argentina/Chile Laguna del Desierto Award* [113 *ILR* 194] – see *Equitable Maritime Boundary Delimitation supra*.

Examination of the Situation

Nuclear Tests Judgments, ICJ Rep. 1974, 272, para.60 [*Aus v. France*], 477, para.63 [*NZ v. France*]; *New Zealand v. France Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests Case Order*, ICJ Rep. 1995, 288, reciting in the initial phrase Article 48 of the Statute, and relying, 302-304, paras 44-54, and 306, para.66, on a “special procedure”, *Declaration Vice-President Schwebel*, 309, *Dissents Koroma*, 376, *Palmer*, 383, 399; *Oral Hearings*, CR 95/20, 45 [Questions Vice-President Schwebel, 12 Sep], 46-47 [Questions Koroma], *NZ and France's Written Replies of 15 Sep 1995*.

Prompt Release of Vessels and Crews

1982 LOSC, Part XV, Article 292, and Part V, Article 73(2), Part XII, Articles 220(6)-(8), 226(1):

Tunisia/Libya (Merits) *Dissent Oda*, ICJ Rep. 1982, 230.

Saint Vincent and the Grenadines v. Guinea M/V Saiga Judgment, relying in para.51 on *Greece v. United Kingdom Ambatielos (Merits: Obligation to Arbitrate)* Judgment, ICJ Rep. 1953, 18, *ITLOS Case No.1*, *Dissent President Mensah*, *Joint Dissent Vice-President Wolfrum and Yamamoto*, *Dissent Anderson*, *Joint Dissent Park, Nelson, Rao, Vukas and Ndiaye* [37 *ILM* 360 (1998)]; *M/V Saiga* Judgment, *ITLOS Case No.2*, *President T.A. Mensah*, paras 163-166, *Separate O. Laing*, paras 57-58 [38 *ILM* 1323 (1999)]; *Panama v. France Camouco* Judgment, *ITLOS Case No.5*, *President Rao concurring*,

Declarations Mensah, Laing, Ndiaye, Separate O. Vice-President Nelson, Dissents Anderson, Vukas, Wolfrum, Treves [39 ILM 666 (2000)]; *Seychelles v. France M/V Monte Confurco* Judgment, ITLOS Case No.6, President Rao concurring, Declarations Mensah, Vukas, Ndiaye, Separate Os Vice-President Nelson, Dissents Anderson, Laing, Jesus; *Belize v. France Grand Prince* Judgment, ITLOS Case No.8, President Rao concurring, Declarations Vice-President Nelson, Wolfrum, Cot, Separate Os Anderson, Laing, Treves, Joint Dissent Caminos, Marotta Rangel, Yankov, Yamamoto, Akl, Vukas, Marsit, Eiriksson and Jesus; *Panama v. Yemen Chaisiri Reefer 2 (Discontinuance)* Order, ITLOS Case No.9, President Rao <<http://www.itlos.org>>.

Exhaustion of Local Remedies

1982 LOSC, Article 295:

Mavrommatis Palestine Concessions Judgment, PCIJ Series A, No.2 (1924); *Panevezys-Saldutiskis Railway* Judgment, PCIJ Series A/B, No.76, 4 (1939); *Greece v. United Kingdom Ambatielos (Preliminary Objection)* Judgment, Vice-President J.G. Guerrero, Acting President concurring, ICJ Rep. 1952, 28, Dissent President Sir Arnold McNair, 58, *Greece v. UK (Merits: Obligation to Arbitrate)* Judgment, ICJ Rep. 1953, 10, Dissent President McNair and Judges Basdevant, Klaestad and Read, 25; 1956 *Greece v. UK Ambatielos Claim Award*, Separate O. President R.J. Alfaro, Dissent Spiropoulos [RIAA XII, 83; 23 ILR 306 and 24 ILR 291; No.422/Stuyt]; *Switzerland v. USA Interhandel (Interim Protection)* Order [unanimous], President A. Badawi, ICJ Rep. 1957, 105, and *Interhandel (Preliminary Objections)* Judgment, President H. Klaestad, ICJ Rep. 1959, 6, 26, Dissents Armand-Ugon, 85, Sir Hersch Lauterpacht, 95; *USA v. Italy Elettronica S.p.A. (ELSI)* Judgment, Chamber's President M. Ruda, ICJ Rep. 1989, 15, 42, Separate O. Oda, 83, Dissent Schwebel, 94; *Oil Platforms (Counter-Claims)* Dissent Rigaux, ICJ Rep. 1998, 228; *Spain v. Canada Pleadings*, 296 [Canada's Counter-Memorial]; *Congo v. Belgium Arrest Warrant of 11 April 2000* Judgment, paras 37-40, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>.

M/V Saiga (Provisional Measures) Separate O. Laing, paras 9, 42 [37 ILM 1218 (1998)]; *Saint Vincent and the Grenadines v. Guinea M/V Saiga* Judgment, ITLOS Case No.2, paras 89-102, Separate Os Wolfrum, paras 46-55, Rao, paras 13-16 [38 ILM 1323 (1999)]; *Panama v. France Camouco* Judgment, ITLOS Case No.5, paras 55-58, Dissent Anderson [39 ILM 666 (2000) <<http://www.itlos.org>>].

On 1934 *Finland v. UK Finnish Ships Award* of Judge Bagge (Sweden) [RIAA III, 1479; No.397/Stuyt], see *Ambatielos Pleadings*, 16 [Greece's Memorial], 266 [UK Rejoinder], 443-444 [Counsel Sir Frank Soskice, 28 March

1953], 492-493 [Counsel Fawcett, 30 March 1953]; 1956 *Greece v. UK Ambatielos Claim Award*; *France v. Norway Certain Norwegian Loans* Pleadings, Vol.II, 161-165 [Counsel Bourquin, 22 May 1957]; *Switzerland v. USA Interhandel (Preliminary Objections)* Dissent Armand Ugon, ICJ Rep. 1959, 87; *USA v. Italy ELSI* Pleadings, Vol.II, 27-28, 265 [Counter-Memorial of Italy], 374 n.1 [US Reply].

On 1956 *Greece v. UK Ambatielos Claim Award* [RIAA XII, 83; 23 ILR 306 and 24 ILR 291; No.422/Stuyt], see *France v. Norway Certain Norwegian Loans* Pleadings, Vol.II, 74 [Agent Gros, 14 May 1957], 161-165 [Counsel Bourquin, 22 May 1957]; *USA v. Italy ELSI* Pleadings, Vol.II, 27-28 [Italy's Counter-Memorial], 374 n.2 [US Reply]; *Oil Platforms* Oral Hearings, CR 96/15, 54 [Counsel Crawford, 20 Sep 1996].

Automatic Exemption of Fishery Disputes **1982 LOSC, Article 297(3):**

On Australia's reservation of 6 February 1954 to its Optional Clause Declaration, excluding from the ICJ jurisdiction its dispute with Japan over pearl fisheries, see *Nicaragua v. USA (Jurisdiction and Admissibility)* Separate Oda, ICJ Rep. 1984, 493, Sir Robert Jennings, 551; *Spain v. Canada (Jurisdiction)* Separate O. Kooymans, ICJ Rep. 1998, 491, para.8.

On Canada's reservation of 7 April 1970 to its Optional Clause Declaration, see Exclusive Economic (Fishery) Zone – Evolution *supra*.

On New Zealand's reservation of 22 September 1977 to its Optional Clause Declaration, excluding from the ICJ jurisdiction "disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines", see *Spain v. Canada* Pleadings, 118, 120-121 [Spain's Memorial]; *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, para.39(c) [39 ILM 1359 (2000)], Hearings, Vol.I [Counsel Rosenne, 7 May 2000], Vol.II [Counsel Burmester, 8 May], Vol.III [Counsel Lowe, 10 May], Vol.IV [Burmester, 11 May 2000] <<http://www.worldbank.org/icsid>>.

On Canada's reservation of 10 May 1994 to its Optional Clause Declaration, excluding from the ICJ jurisdiction "disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area ... and the enforcement of such measures", see *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 432, Separate O. President Schwebel, 470; *Southern Bluefin Tuna (Jurisdiction)* Japan's

Memorial, paras 4-7, 99, A/NZ Reply, paras 49-51, Hearings, Vol.II [Counsel Burmester, 8 May 2000] <<http://www.worldbank.org/icsid>>.

M/V Saiga (Provisional Measures) Separate O. Laing, 37 ILM 1218 (1998), paras 22, 42; *M/V Saiga* Judgment, ITLOS Case No.2, President T.A. Mensah, 38 ILM 1323 (1999), para.44; *Southern Bluefin Tuna (Provisional Measures)* Order, President T.A. Mensah, ITLOS Cases Nos 3/4 [38 ILM 1624 (1999)] and ITLOS/PV.99/20, 10-11 [Counsel Williams, 18 Aug 1999] – applicability of exemption under Article 297(3) LOSC was denied by the applicants claiming that the disputes concerned only the high seas part of the stock, and this issue was not addressed by ITLOS; 2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President S.M. Schwebel, paras 41(b)(c) and 60-62 [39 ILM 1359 (2000)]; A/NZ Reply, paras 28-30, 35, 59, 116, Hearings, Vol.I [Counsel Rosenne, 7 May 2000], Vol.II [Counsels Burmester, Crawford, 8 May], Vol.III [Counsel Lowe, 10 May], Vol.IV [Counsel Crawford, 11 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *EC/Chile Swordfish*, discontinued ITLOS Case No.7 [40 ILM 475 (2001)] and WTO Panel <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

Maritime Boundary Delimitation Disputes

1982 LOSC, Article 298(1)(a):

Denmark v. Norway Separate O. Vice-President Oda, ICJ Rep. 1993, 113.

See also Equitable Maritime Boundary Delimitation – 1982 LOSC, Articles 74/83 *supra*.

On Malta's reservation of 23 January 1981 to its Optional Clause Declaration, accepting the ICJ jurisdiction with respect to the continental shelf delimitation disputes, and on Malta's reservation of 2 September 1983, excluding from the ICJ jurisdiction disputes concerning: its territory, including the territorial sea and the status thereof; the continental shelf or any other zone of maritime jurisdiction and the resources thereof; the determination or delimitation of any of the above; and the prevention or control of pollution or contamination of the marine environment, see *Nicaragua v. USA (Jurisdiction and Admissibility)* Separate Oda, ICJ Rep. 1984, 494, Sir Robert Jennings, 551-552; *Libya/Malta* Pleadings, Vol.II, 621 [Counsel Lauterpacht, 30 Jan 1984]; *Spain v. Canada* Pleadings, 118 [Spain's Memorial].

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, para.61 [39 ILM 1359 (2000)] <<http://www.worldbank.org/icsid>>.

Military Activities and Law Enforcement Disputes

1982 LOSC, Articles 298(1)(b) and 302:

Military Activities Disputes

On France's reservation of 20 May 1966 to its Optional Clause Declaration, excluding from the ICJ jurisdiction "disputes concerning activities connected with national defence", see the 1973/74 *Nuclear Tests* and 1995 *France v. New Zealand* cases [Peaceful Uses of the Sea, Nuclear Weapon Tests *infra*].

2000 *Southern Bluefin Tuna (Jurisdiction)* Hearings, Vol.III [Question 9 of Arbitrators, 10 May 2000], Vol.IV [Question 10 of Sir Kenneth Keith, 11 May], Written Answers of Australia and New Zealand to Question 9, paras.9.4/5, and Question 10 of Arbitrators [26 May 2000] <<http://www.worldbank/icsid.org>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Oral Hearings, ITLOS/PV.01/06, 14 [Agent O'Hagan, 19 Nov 2001] <<http://www.itlos.org>>.

Law Enforcement Disputes

Tunisia/Libya (Merits) Dissent Oda, ICJ Rep. 1982, 230.

2000 *Southern Bluefin Tuna (Jurisdiction)* Award, para.61 [39 ILM 1359 (2000)] <<http://www.worldbank.org/icsid>>].

Involvement of the UN Security Council

1982 LOSC, Article 298(1)(c):

SC Resolution 19 of 27 February 1947 and Resolution 22 of 9 April 1947: *Corfu Channel (Preliminary Objection)* Judgment, ICJ Rep. 1947-1948, Separate Opinion Basdevant, Alvarez, Winiarski, Zoricic, de Visscher, Badawi Pascha and Krylov, 31, Dissent Daxner, 33; *Corfu Channel (Merits)* ICJ Rep. 1949, 4 – Judgment, 24, Individual O. Alvarez, 41, Dissents Winiarski, 55, Badawi Pascha, 61-62, 66, Azevedo, 87-88, 90, 92, 94, 96-98, 111-112; *Corfu* Pleadings, Vol.I, 30-37, 41-42 [UK Memorial], Vol.III, 296 [Agent Sir Eric Beckett, 12 Nov 1948]; *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 146-147.

During the pair of the 1972/1974 *Fisheries Jurisdiction* cases (see *Fisheries supra*) and thereafter the British/Icelandic incidents of the Second and Third Cod Wars were brought in May 1973 and December 1975 to the attention of the Security Council which, however, took no decision on either occasion. See *Fisheries Jurisdiction (Continuance of Interim Protection)* Dissents Gros, ICJ Rep.1973, 307, 317; Pleadings (UK), 286, 375-378, 421-432 [Memorial (Merits)], (FRG), 260-263, 277-284 [Memorial (Merits)]; UN Doc. S/1975/11907.

SC Resolution 395 of 25 August 1976: *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 12-13, Separate Os President de Aréchaga, 16, Lachs, 19-20, Elias, 27, 29-30, Tarazi, 33-34, Dissent Stassinopoulos, 38-39 (*Jurisdiction*) Judgment, ICJ Rep. 1978, 10-11; Pleadings, 131-133 [Counsel Pinto, 26 Aug 1976], 135 [Question President de Aréchaga], 137 [Reply of Agent Karandreas, 27 Aug 1976], 138 [Question Lachs], 194-197 [Greece's Memorial (Jurisd.)], 320-326 [Counsel O'Connell, 9 Oct 1978], 503-510 [texts], 578 [Written Reply to Lachs, 28 Aug 1976].

Basic elements of SC 395 were incorporated in the Berne Agreement of 11 November 1976 [*Aegean Sea* Pleadings, 280, reprinted in UN Doc. S/1987/18766, Annex II]. Cf. Doc. S/1987/18759.

The oil rig *Saipem II* incident in August 1980 was brought to the attention of the Security Council and good offices of UN Secretary-General Kurt Waldheim [UN Docs S/1980/14228, 14229 and 14256; 26 AFDI 422 (1980); and S/1981/14786] were instrumental in persuading Libya and Malta to bring their dispute to the Court. See *Libya/Malta* Pleadings, Vol.I, 90-92 [Libya's Memorial], 375 [S/1980/14140], 377 [S/1980/14145], 378 [S/1980/14256], 381-382 [S/PV.2294th Meeting, 30 July 1981], 383-386 [S/1981/14786], 428 [Malta's Memorial], Vol.II, 21-23, 143, 169 [Libya's Counter-Memorial]; *Annual Review of United Nations Affairs 1980 90* (1981) and *1981* 113 (1983).

Armed incidents in the Bakassi Peninsula were brought to the attention of the Security Council in 1994 and 1996 [S/1994/228, 258, 351 and 519; S/1996/125, 140, 150] and good offices of UN Secretary-General Boutros Boutros-Ghali [S/1996/390, 391, 891 and 892], which paralleled the *Cameroon v. Nigeria (Provisional Measures)* proceedings, resulted in a peaceful settlement of the conflict. See *Cameroon v. Nigeria (Provisional Measures)* Order, ICJ Rep. 1986, 23-24, Separate O. Ajibola, 42-43; *1996 SC Resolutions and Decisions* 91-92 (S/INF/52, UN 1998); *Cameroon v. Nigeria (Preliminary Objections)* Judgment, ICJ Rep. 1998, 297-298, 306-307.

In his Statement to the 53rd UNGA, President Schwebel exemplified the possibility of political and judicial resolution of disputes working in parallel by the fact that both the Security Council and the Court called on the parties to respect a ceasefire and to take the necessary steps to return their forces to the position that they had occupied before the outbreak of the fighting. See UN Doc. A/53/PV.44, 2-3 (27 October 1998), reprinted in *ICJ Yearbook 1998-1999* 316, 319 (No.53) <<http://www.icj-cij.org>>.

On Request of the Ministry of Foreign Affairs of Honduras to the President of the United Nations Security Council of 18 January 2002, see *Equitable Maritime Boundary Delimitations – 1992 Gulf of Fonseca* Judgment *supra*.

See also *United Kingdom v. Anglo-Iranian Oil Co. (Interim Protection)* Order, ICJ Rep. 1951, 89; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)* Advisory Opinion, ICJ Rep. 1971, 16; *USA v. Iran United States Diplomatic and Consular Staff in Tehran (Provisional Measures)* Order, ICJ Rep. 1979, 7; *Nicaragua v. USA Military and Paramilitary Activities (Provisional Measures)* Order, ICJ Rep. 1984, 169, (*Jurisdiction and Admissibility*) Judgment, 435, para.95; *Guinea-Bissau v. Senegal (Provisional Measures)* Dissent Thierry, ICJ Rep. 1990, 81; *Libya/Chad Territorial Dispute* Judgment, ICJ Rep. 1994, 36-37, Separate O. Ajibola, 57, 82; *Nuclear Weapons (WHO)* Dissent Weeramantry, ICJ Rep. 1996, 150; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide [Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)] (Provisional Measures)* Orders, ICJ Rep. 1993, 3, 325, Declaration Oda, Separate Os Shahabuddeen, Weeramantry, Ajibola, Lauterpacht, Dissents Tarassov, Kreca, *Bosnia and Herzegovina v. Yugoslavia (Preliminary Objections)* Judgment, ICJ Rep. 1996, 595, Declaration Oda, 625, Joint D. Shi and Vereshchetin, 631, Declaration Lauterpacht, 633, Separate Os Shahabuddeen, 634, Weeramantry, 640, Parra-Aranguren, 656, Dissent Kreca, 658, (*Counter-Claims*) Order, President S.M. Schwebel, ICJ Rep. 1997, 243.

Questions of Interpretation and Application of the 1971 Montreal Convention Arising From the Aerial Incident at Lockerbie (Provisional Measures) ICJ Rep. 1992, [*Libya v. UK*] Order, 3, Joint D. Evensen, Tarassov, Guillaume and Aguilar Mawdsley, 24, Separate Os Lachs, 26, Shahabuddeen, 28, Dissent Bedjaoui, 33, Dissents Weeramantry, 50, Ranjeva, 72, Ajibola, 78, El-Kosheri, 94, [*Libya v. USA*] Order, 114, [Opinions, as above]; and (*Preliminary Objections*) ICJ Rep. 1998, [*Libya v. UK*] Judgment, 9, Joint D. Bedjaoui, Guillaume and Ranjeva, 32, Joint D. Bedjaoui, Ranjeva and Koroma, 46, Joint D. Guillaume and Fleischhauer, 47, Declaration Herczegh, 51, Separate Os Kooymans, 54, Rezek, 61, Dissent President Schwebel, 64, Dissents Oda, 82, Sir Robert Jennings, 99; [*Libya v. USA*] Judgment, 115, Joint D. Bedjaoui, Ranjeva and Koroma, 138, Joint D. Guillaume and Fleischhauer, 139, Declaration Herczegh, 143, Separate Os Kooymans, 144, Rezek, 152, Dissent President Schwebel, 155, Dissent Oda, 173. Cf. *Spain v. Canada Fisheries (Jurisdiction)* Pleadings, 606-607 [Co-Agent Hankey, 17 June 1998].

With respect to reaffirmation in each of the ten *Legality of Use of Force (Provisional Measures)* Orders of 2 June 1999 that “when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter” (last paragraph before the *dispositif*), Judge *ad hoc* Kreca remarked in each of his nine Dissents and in his one Separate Opinion that this formulation “leaves the

impression that the Court is elegantly attempting to drop the ball in the Security Council's court", ICJ Rep. 1999, 256, 360, 418, 477, 538, 652, 758, 823, 913, 971 <<http://www.icj-cij.org>>. The Security Council adopted its Resolutions S/RES/1244 and 1247 on 10 and 18 June 1999.

Pakistan v. India Aerial Incident of 10 August 1999 (Jurisdiction) Judgment, ICJ Rep. 2000 (in press); *Congo v. Uganda (Provisional Measures)* Order, ICJ Rep. 2000 (in press); *Congo v. Belgium (Provisional Measures)* Order, ICJ Rep. 2000 (in press) <<http://www.icj-cij.org>>.

See also Peaceful Uses of the Sea *infra*.

1998 *Eritrea/Yemen Territorial Sovereignty (Phase I)* Award, paras 270, 306, 505 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>].

Statements of the ICJ Presidents to the United Nations General Assembly are published in the *ICJ Yearbooks* and are also available at the Court's Internet address <<http://www.icj-cij.org>>.

1982 LOSC, Article 287(1)(d) and Annex VIII

The *IMCO* Advisory Opinion, ICJ Rep. 1960, 150 [High Seas, Nationality of Ships – Genuine Link *supra*] underlined prominence of the IMCO which, under Assembly Resolution 450(11) of 1979, was renamed into the International Maritime Organization (IMO) and has evolved to the principal international organization responsible for the issues pertaining to navigation and marine-based sources of pollution. Cf. *Great Belt* Pleadings, 347 [Finland's Memorial]. All references throughout the 1982 LOSC to "international organization" in singular form in the context of those matters apply to the IMO. Other three principal international organizations listed in Annex VIII include the UNEP, FAO and IOC/UNESCO, responsible for environment, fisheries and marine scientific research respectively.

On the IMO's role, see also Straits Used for International Navigation – *Great Belt* case; and Protection and Preservation of the Marine Environment – Pollution From Vessels *supra*.

Southern Bluefin Tuna (Jurisdiction) Hearings, Vol.II [Counsel Jennings, 8 May 2000] <<http://www.worldbank.org/icsid>>.

See also Privileges and Immunities of the LOSC Institutions *infra*.

GOOD FAITH AND ABUSE OF RIGHTS

1945 UNITED NATIONS CHARTER, ARTICLE 2(2)

1982 LOSC, PART XVI, ARTICLE 300

1992 UNCED RIO DECLARATION, PRINCIPLE 27

1995 SSA, ARTICLE 34

Corfu Channel (Merits) Dissent Azevedo, ICJ Rep. 1949, 103, Dissent Ecer, 119; *Anglo/Norwegian Fisheries* Individual O. Alvarez, ICJ Rep. 1951, 150, 152, 153; *Rights of Nationals of the USA in Morocco* Judgment, ICJ Rep. 1952, 212; *North Sea* Judgment, ICJ Rep. 1969, 46, para.85, Separate O. President Bustamante y Rivero, 58, Separate O. Ammoun, 102; Pleadings, Vol.I, 455, 516 [Common Rejoinder of Denmark/NL]; *Fisheries Jurisdiction (Merits)* Judgments, ICJ Rep. 1974, 33, 34 (para.79(2)), 202, 205 (para.77(2)), Separate O. Dillard, 71; *Nuclear Tests* Joint Dissent, 362; *Tunisia/Libya (Merits)* Dissent Gros, ICJ Rep. 1982, 145; *Gulf of Maine* Judgment, ICJ Rep. 1984, 305; *Great Belt* Pleadings, 629-639 [Denmark's Counter-Memorial]; *Libya/Chad Territorial Dispute* Separate O. Ajibola, ICJ Rep. 1994, 71-74; *France v. New Zealand* Oral Hearings, CR 95/21 [transl.], 18 [Dupuy, 12 Sep 1995]; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 264-265; *Gabcikovo* Judgment, ICJ Rep. 1997, 66, 78-79, Dissent Fleischhauer, 205-206, 210; *Cameroon v. Nigeria (Preliminary Objections)* Dissent Ajibola, ICJ Rep. 1998, 398; *Spain v. Canada* Pleadings, 240-241 [Canada's Counter-Memorial], 479-480, 487 [Counsel Dupuy, 10 June 1998].

Cameroon v. Nigeria Land and Maritime Boundary (Preliminary Objections) Judgment, ICJ Rep. 1998, 296-297, paras 38-39, *reaffirming* 1910 *UK/USA North Atlantic Coast Fisheries* Award [RIAA XI, 167, 188; No.291/Stuyt]; *Factory of Chorzów (Merits)* Judgment No.13, PCIJ Series A, No.17, 30 (1928); *Free Zones of Upper Savoy and the District of Gex (Second Phase)* Order, PCIJ Series A, No.24, 12 (1930), and *(Final Phase)* Judgment, PCIJ Series A/B, No.46, 167 (1932); *Rights of Nationals of the USA in Morocco* Judgment, ICJ Rep. 1952, 212; *FRG v. Iceland Fisheries Jurisdiction (Jurisdiction)* Judgment, ICJ Rep. 1973, 18; *Nuclear Tests* Judgments, ICJ Rep. 1974, [Australia v. France] 268, [New Zealand v. France] 473; *Nicaragua v. Honduras Transborder Armed Actions (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1988, 105.

For reaffirmation of the 1910 *North Atlantic Coast Fisheries* holding, see also 1986 *Canada/France* Award [Fisheries *supra*].

United States – Import Prohibition of Certain Shrimp and Shrimp Products Report AB-1998-4, WTO Appellate Body, President F. Feliciano, WT/DS58/AB/R, 12 October 1998, para.158.

Southern Bluefin Tuna (Provisional Measures) Order, ITLOS Cases Nos 3/4, President Mensah [38 ILM 1624 (1999)]; 2000 *Southern Bluefin Tuna (Jurisdiction)* Award, President Schwebel paras 34, 41(c), 64 [39 ILM 1359 (2000)]; Japan's Memorial, paras 115, 168, A/NZ Reply, paras 38, 181-184, Hearings, Vol.I [Counsel Lowe, 7 May 2000], Vol.II [Counsel Geddis, 8 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *EC/Chile Swordfish*, ITLOS Case No.7, President P. Chandrasekhara Rao [40 ILM 475 (2001) <<http://www.itlos.org>>].

PEACEFUL USES OF THE SEA

Prohibition of Threat or Use of Force

1945 United Nations Charter, Articles 2(4) and 51; 1982 LOSC, Preamble, Part II, Article 19(2)(a), Part III, Article 39(1)(b), Part XVI, Article 301:

Corfu Channel (Merits) ICJ Rep. 1949, 4 – Judgment, 30-31, 34-35, Individual O. Alvarez, 42, 47, Dissent Krylov, 76-77, Dissents Azevedo, 108-109, 112, Ecer, 115-116, 129-131; *Corfu Channel Pleadings*, Vol.I, 44-45 [UK Memorial], Vol.II, 115-116 [Albania's Counter-Memorial], 281-284 [UK Reply], 367-375 [Albania's Rejoinder], Vol.III, 265, 290-296 [Agent Sir Eric Beckett, 11 and 12 Nov 1948], 404-422 [Counsel Cot, 18 and 19 Nov 1948], Vol.IV, 580-584 [Agent Beckett, 19 Jan 1949], 675-679 [Counsel Cot, 22 Jan 1949]; *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 118, Dissent Tanaka, 172; *Nuclear Tests (Interim Measures)* Dissents Ignacio-Pinto, ICJ Rep. 1973, 132, 163; *Aegean Sea (Interim Measures)* Order, ICJ Rep. 1976, 6-8, 11-13, Separate Os President de Aréchaga, 16, Mosler, 26, Elias, 27-30, Dissent Stassinopoulos, 35-40, (*Jurisdiction*) Dissent Stassinopoulos, ICJ Rep. 1978, 79; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 42; *Nicaragua v. USA (Provisional Measures)* Order, ICJ Rep. 1984, 170, para.1(b) and (e), 181, para.28, 187, para.41(B)(1), Dissent Schwebel, 190, 199, (*Jurisdiction and Admissibility*) Judgment, ICJ Rep. 1984, 424, para.73, *as reaffirmed* by *Nicaragua v. USA (Merits)* Judgment, ICJ Rep. 1986, 93, para.174, also *id.* 46-53, paras 76-92, and 111-112, para.213, Dissent Schwebel, 259, and *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 244-247, Dissents Vice-President Schwebel, 322-329, Koroma, 557.

Legality of the Use by a State of Nuclear Weapons In Armed Conflict ICJ Rep. 1996 – Advisory Opinion, 66, Declaration Ranjeva, 86, Declaration Ferrari Bravo, 87, Separate O. Oda, 88, Dissents Shahabuddeen, 97, Weeramantry, 101, Koroma, 172; *Legality of the Threat or Use of Nuclear Weapons* ICJ Rep. 1996 – Advisory Opinion, 226, Declaration President Bedjaoui, 268, Declarations Herczegh, 275, Shi, 277, Vereshchetin, 279, Ferrari Bravo, 282, Separate Os Guillaume, 287, Ranjeva, 294, Fleischhauer, 305, Dissent Vice-President

Schwebel, 311, Dissents Oda, 330, Shahabuddeen, 375, Weeramantry, 429, Koroma, 556, Higgins, 583.

See also UNGA Resolution 54/54-Q of 1 December 1999 on Follow-Up to the Advisory Opinion of the ICJ on the *Legality of the Threat or Use of Nuclear Weapons*, and UN Docs A/53/208 and 208/Add.1 (1998), A/54/161 and 161/Add.1 (1999), A/55/131 and Add.1 (2000).

Bosnia and Herzegovina v. Yugoslavia (Provisional Measures) Orders, ICJ Rep. 1993, 3, 325, (*Preliminary Objections*) Judgment, ICJ Rep. 1996, 595, (*Counter-Claims*) Order, ICJ Rep. 1997, 243; *Iran v. USA Oil Platforms (Preliminary Objection)* Judgment, ICJ Rep. 1996, 803, (*Counter-Claim*) Order, ICJ Rep. 1998, 190; *Cameroon v. Nigeria (Provisional Measures)* Order, ICJ Rep. 1996, 13, (*Preliminary Objections*) Judgment, ICJ Rep. 1998, 275, *Nigeria v. Cameroon (Interpretation)* Judgment, ICJ Rep. 1999, 31; *Spain v. Canada Fisheries (Jurisdiction)* Judgment, ICJ Rep. 1998, 432, paras 24, 35, 53, 78-84, Separate O. President Schwebel, 470; Pleadings, 538-557 [Counsel Weil, 12 June 1998], 559-560 [Agent Pastor Ridruejo [15 June], 599-600, 604 [Co-Agent Hankey, 17 June 1998] <<http://www.icj-cij.org>>.

In each of the ten *Legality of Use of Force (Provisional Measures)* Orders of 2 June 1999, the Court expressed its profound concern with the use of force in Yugoslavia which “raises very serious issues of international law”, and deemed it necessary to emphasize that “all parties appearing before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law”, ICJ Rep. 1999, 140, 273, 374, 433, 492, 557, 671, 773, 839, 925; *Congo v. Uganda (Provisional Measures)* Order, ICJ Rep. 2000 (in press); *Qatar v. Bahrain (Merits)* Judgment, President G. Guillaume, ICJ Rep. 2001 (in press), paras 48, 55, 76, 84, 96, Joint Dissent Bedjaoui, Ranjeva, Koroma, paras 134-135, Dissent Torres Bernardez, paras 92-94, 104, 114, 118-130, 193, 200, Separate O. Fortier, paras 35-41 <<http://www.icj-cij.org>>.

1904 *UK/Russia Dogger Bank* Report of International Commission of Inquiry, 2 AJIL 929 (1908); PCA 1999, 297; No.C 1/Stuyt.

For codification of the principle of *neutrality*, see *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 260-261, paras 88-89, Dissent Shahabuddeen, 387-389.

For codification of the rules on *state of necessity*, see *Gabcikovo-Nagymaros Project* Judgment, President S.M. Schwebel, ICJ Rep. 1997, 35-42, paras 40-54, and at 45-46, para.57, relying on Draft Articles on the International Responsibility of States, Article 33, *ILC Yearbook* 1980-II, 32. See also *New Zealand v. France Rainbow Warrior Award*, RIAA XX, 217, at 253 [Access to

and Jurisdiction and Treatment in Ports *supra*]; *M/V Saiga (Merits)* Judgment, ITLOS Case No.2, President T.A. Mensah, paras 129 and 132-136, 38 ILM 1323 (1999).

Cf. Sir Arthur Watts, *The International Law Commission 1994-1998*, Vol.I, 13 (Oxford 1999); Second Report on State Responsibility, J. Crawford Special Rapporteur, UN Doc. A/CN.4/498/Add.2, 28-30 and 31 (1999).

For codification of the rules on *countermeasures*, see *Gabcikovo-Nagymaros Project* Judgment, ICJ Rep. 1997, 55-57, paras 82-88, relying on ILC Draft Articles on State Responsibility, Articles 47-50, UN Doc. A/51/10, 144-145 (1996), as well as on: 1978 *USA/France Interpretation of Air Transport Services Agreement of 27 March 1946* Award, 54 ILR 311; RIAA XVIII, 421, at 443 et seq.; No.439/Stuyt; and on *Nicaragua v. USA (Merits)* Judgment, ICJ Rep. 1986, 127, para.249. See also *Gabcikovo* Dissent Vereshchetin, ICJ Rep. 1997, 219-226.

Cf. Second Report on State Responsibility, J. Crawford Special Rapporteur, UN Doc. A/CN.4/498/Add.4, 10-13 (1999); Third Report on State Responsibility, J. Crawford, UN Doc. A/CN.4/507/Add.4, 19 n.792 (2000).

Nuclear (Atmospheric and Underground) Weapon Tests

Nuclear Tests (Interim Protection) Orders, ICJ Rep. 1973, 99 [*Australia v. France*], 135 [*New Zealand v. France*], Vice-President F. Ammoun Acting President concurring, Declarations Sir Garfield Barwick, 110, 146, Dissents Forster, 111, 148, Dissents Gros, 115, 149, Dissents Petren, 124, 159, Dissents Ignacio-Pinto, 128, 163, (*Application of Fiji for Permission to Intervene*) Orders, ICJ Rep. 1973, 320 [*Aus v. France*], 324 [*NZ v. France*], and ICJ Rep. 1974, 530 [*Aus v. France*], 535 [*NZ v. France*], President M. Lachs concurring, Declarations (dissenting) Gros, Petren, Onyeama, Ignacio-Pinto, 322, 326, Declarations (concurring) Gros, Onyeama, 531, 536, Dillard and Sir Humphrey Waldock, Jiménez de Aréchaga, 532, 537, Barwick, 533, 538, and *Nuclear Tests* Judgments, ICJ Rep. 1974, 253 [*Aus v. France*], 457 [*NZ v. France*], Declaration President Lachs, 273, Separate Os Forster, 275, 479, Separate Os Gros, 276, 480, Separate Os Petren, 298, 483, Separate Os Ignacio-Pinto, 308, 493, Joint Declaration and Joint Dissents Bengzon, Onyeama, Dillard, de Aréchaga and Sir Humphrey Waldock, 273, 311, 494, Dissents de Castro, 372, 524, Dissents Barwick, 391, 525; Orders, ICJ Rep. 1973, 338, 341; *Nuclear Tests* Pleadings (Australia), 333 [Memorial], 524 [Question Waldock, 9 July 1974], 525-527 [Reply Counsel Byers, 11 July], (New Zealand), 291 [Question Waldock, 11 July], 429-431 [Reply Agent, 15 July 1974].

Fisheries Jurisdiction (Continuance of Interim Measures) Dissents Petren, ICJ Rep. 1973, 310-311, 318; *Aegean Sea (Jurisdiction)* Separate O. Lachs, ICJ Rep. 1978, 50-51, Dissent Stassinopoulos, 79; Pleadings, 102-103, 111-112 [Counsel O'Connell, 25 Aug 1976], 125 [Counsel Pinto, 26 Aug 1976], 266, 276 [Memorial of Greece], 438 [Counsel Economides, 16 Oct 1978], 455-456 [O'Connell]; *Tunisia/Libya (Intervention)* Judgment, ICJ Rep. 1981, 16, Separate O. Oda, 32-33; *Gulf of Maine Pleadings*, Vol.V, 531, 536 [US Reply]; *Nicaragua v. USA (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1984, 418; *Libya/Malta (Intervention)* Dissent Oda, ICJ Rep. 1984, 111; *Burkina Faso/Mali Frontier Dispute* Judgment, ICJ Rep. 1986, ICJ Rep. 1986, 573-574; *Nicaragua v. Honduras (Jurisdiction and Admissibility)* Judgment, ICJ Rep. 1988, 105-106; *Great Belt (Provisional Measures)* Separate O. Shahabuddeen, ICJ Rep. 1991, 32-33; Hearings, CR 91/9, 31-32, 37-39, 47 [Counsel Sinclair, 1 July 1991], Pleadings, 249, 328 [Finland's Memorial]; *New Zealand v. France Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests Case* Order, ICJ Rep. 1995, 288, President M. Bedjaoui concurring, Declaration Vice-President Schwebel, 309, Declarations Oda, Ranjeva, 310, 311, Separate O. Shahabuddeen, 312, Dissents Weeramantry, 317, Koroma, 363, Sir Geoffrey Palmer, 381 [Pleadings (written/oral) and the Order reprinted, in *New Zealand at the International Court of Justice: French Nuclear Testing in the Pacific* (NZ Ministry of Foreign Affairs 1996)]; *Legality of the Threat or Use of Nuclear Weapons (WHO)* Dissent Koroma, ICJ Rep. 1996, 179-180, 217, (UNGA) Advisory Opinion, 226, 243, 265, Declaration President Bedjaoui, 268, Dissent Vice-President Schwebel, 311; Oral Hearings, CR 95/22, 67-68 [Foreign Minister Evans, 30 Oct 1995], CR 95/27, 55, 61, 65 [Malaysia, 7 Nov], CR 95/28, 20, 39-41, 50, 53-59 [NZ Attorney-General East, 9 Nov], CR 95/31, 26-29 [Samoa, 13 Nov], CR 95/32, 32-33 [Solomon Islands, 14 Nov 1995]; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* UK Response, paras 133, 227-228; Oral Hearings, ITLOS/PV.01/06, 32-33 [Counsel Sands, 19 Nov 2001], ITLOS/PV.01/08, 14, 17 [Counsel Bethlehem, 20 Nov 2001] <<http://www.itlos.org>>.

See also *ILC Yearbook* 1956-II, 278 [Article 27: Freedom of the High Seas], 286 [Article 48: Pollution of the High Seas], 295 [Article 66: Contiguous Zone]; and 1960-II, 65; Sir Arthur Watts, *The International Law Commission 1949-1998*, Vol.I, 58-59, 75-76 (Oxford 1999).

On compensation paid (without admitting any liability) by the USA to Japan in 1955 and to inhabitants of Rongelap Atoll (Pacific Islands Trust Territory) in 1964 for injuries caused by the US nuclear tests conducted in 1954 on Enewetak and Bikini Atolls respectively, see *Nuclear Tests* Dissent Gros, ICJ Rep. 1974, 281-282; Pleadings (Australia), 332 [Memorial], 520 [Counsel Byers, 9 July

1974]; *Nuclear Weapons (UNGA)* Dissent Weeramantry, ICJ Rep. 1996, 462-463, 469, Dissent Koroma, 569; Oral Hearings, CR 95/32, 19-31 [Marshall Islands, 14 Nov 1995].

On 1954 *The Diago Fukurya Maru* (Japanese fishing boat affected by US nuclear tests in Bikini Atoll; US paid *ex gratia* compensation), see *Nuclear Tests Pleadings (Australia)* 332 [Memorial], 521 [Counsel Byers, 9 July 1974]; *Nuclear Weapons (WHO)* Dissent Weeramantry, ICJ Rep. 1996, 120.

See also *ILC Report 47th Session 231-232 (A/50/10, 1995)*; *In the Matter of the People of Enewetak, et al., Claimants for Compensation Award of Marshall Islands' Nuclear Claims Tribunal*, 39 ILM 1214 (2000).

On French nuclear tests carried in Algeria in 1960/63 in compliance with Article 34 of the EURATOM Treaty of 25 March 1957 [in force: 1 January 1958, 51 AJIL 955 (1957)], see *Nuclear Tests Pleadings (Australia)*, 3 [Application], 315, 333 [Memorial], (New Zealand), 288-289 [Counsel Quentin-Baxter, 10 July 1974]; *New Zealand v. France* Dissent Palmer, ICJ Rep. 1995, 386; NZ Request (Examination of the Situation), paras 94-95 n.88; Oral Hearings, CR 95/19, 64 [Counsel Lauterpacht], 11 Sep 1995].

On *AALCC Report on the Legality of Nuclear Tests* (New Delhi 1964), see *Nuclear Tests* Joint Dissent, ICJ Rep. 1974, 362; *Pleadings (Australia)*, 334 n.1, 377 [Memorial].

For a map showing the French Pacific Tests Centre (Centre d'expérimentations du Pacifique), opened in 1963 in Mururoa and Fangataufa Atolls (Tuamotu Archipelago, French Polynesia), including prohibited and dangerous zones for aircraft and shipping, see *Nuclear Tests Pleadings (Australia)*, 3 [Application], Annex 1, 16, (NZ), 3 [Application], Annex 1, 10. Cf. *Nuclear Tests* Judgments, ICJ Rep. 1974, 258, 461.

For the Lists of French Atmospheric Nuclear Tests in 1966/74 and Underground Nuclear Tests in 1975/91, see *Nuclear Tests Pleadings (Australia)*, 4 [Application]; 1995 NZ Request (Examination of the Situation), Annex 4.

On Statement of President Jacques Chirac of 13 June 1995 that France would conduct a final series (18th since 1975) of eight underground nuclear weapon tests in the South Pacific starting in September, see *Nuclear Tests* Order, ICJ Rep. 1995, 289, Dissent Palmer, 390; 1995 NZ Request (Examination of the Situation), para.57, Annex I; Oral Hearings, CR 95/19, 20-21 [Agent East, 11 Sep 1995], 65 [Counsel Lauterpacht]. *Nuclear Weapons* Oral Hearings, CR 95/22, 67-68 [Foreign Minister Evans, 30 Oct 1995].

After the Court rendered its 1995 *New Zealand v. France Nuclear Tests* Order, ICJ Rep. 1995, 288, President Chirac announced on 29 January 1996 that with its 6th explosion on 27 January, France concluded its current series of the South Pacific tests. On results of the Study of the Radiological Situation at the Atolls of

Mururoa and Fangataufa, see IAEA Resolution GC(42)/RES/14 of 25 September 1998.

On France's withdrawal from Optional Clause on 2 January 1974 [83 RGDIP 822 (1974)], see *Nuclear Tests Pleadings* (Australia), 441 [Counsel Lauterpacht]; 1995 NZ *Aide-Mémoire*, para.55; *New Zealand v. France* Dissent Palmer, ICJ Rep. 1995, 420; Oral Hearings, CR 95/19, 49 [Counsel McGrath, 11 Sep 1995], CR 95/21, 53 [Watts, 12 Sep 1995]; *Legality of Use of Force* Separate Os Oda, para.11 (all 10 Orders), ICJ Rep. 1999, 149, 283, 388, 447, 508, 567, 681, 854, 938 <<http://www.icj-cij.org>>.

On France's denunciation on 2 January 1974 of the 1928 General Act for the Pacific Settlement of International Disputes [93 LNTS 344], see *Nuclear Tests* Judgments, ICJ Rep. 1974, 272, para.60, 477, para.63; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 16, Dissent Stassinopoulos, 72-73; Pleadings, 209 [Greece's Memorial (Jurisd.)]; *New Zealand v. France* Order, ICJ Rep. 1995, 289, para.3, 293, para.18, 302, para.45, Dissents Weeramantry, 337-338, Koroma, 368, 374-375, Palmer, 394-395; Oral Hearings, CR 95/19, 46-49 [Counsel McGrath, 11 Sep 1995].

See also Statements of France, in *UNCLOS III Off. Rec.*, Vol.I: Jeannel, 37th Meeting-11 July 1974, 155 (1975); Vol.V, de Lacharriere, 59th Meeting-5 April 1976, 13-14 (1976).

On France's Declaration upon signing the 1982 LOSC and ensuing 1983 Statement [*UNCLOS III Off. Rec.*, Vol.XVII, 86-87, 241 (1984)], see *New Zealand v. France* Oral Hearings, CR 95/20, 28 [Co-Agent MacKay, 12 Sep 1995].

On France's reservation upon signing the 1986 SPREP Convention, see Protection and Preservation of the Marine Environment *supra*.

See also *Nuclear Weapons (UNGA)* Dissent Oda, ICJ Rep. 1996, 338-339 (France), 340 (Australia), 341; Oral Hearings, CR 95/24, 33 [Vice-President Schwebel's Question to France, 2 Nov 1995], 71 [to Mexico].

On Resolution I on Nuclear Tests on the High Seas [*UNCLOS I Off. Rec.* 1958-II, 143], see *Nuclear Tests* Dissent de Castro, ICJ Rep. 1974, 390; Pleadings (Australia), 378-380.

On Resolution 3(I) of the 1972 UN Stockholm Conference on the Human Environment and Principle 26 of the Stockholm Declaration, see *Nuclear Tests* Joint Dissents, ICJ Rep. 1974, 361, 514, 520; Pleadings (Australia), 48-49 [Request], 334, 370, 372 [Memorial], (NZ), 8 [Application], 55 [Request], 203 [Memorial]; *New Zealand v. France* Dissent Palmer, ICJ Rep. 1995, 407.

On Principle 24 of the 1992 UNCED Rio Declaration, see *Nuclear Weapons (WHO) Dissents* Weeramantry, ICJ Rep. 1996, 141, Koroma, 187, 216, (UNGA) Advisory Opinion, 242.

On 1986/90 *The Rainbow Warrior* Mediation and Arbitration, see Access to and Jurisdiction and Treatment in Ports *supra*.

Maritime Terrorism

Corfu Channel (Merits) Dissent Ecer, 115.

The seizure of the Italian cruise ship *Achille Lauro* by Palestinian guerrillas in Egyptian territorial waters on 7 October 1985 and the brutal murder of the US national Leon Klinghoffer on 8 October 1985 led to the adoption of the 1987 US Anti-Terrorism Act [Pub.L. No.100-204, paras 1001-1005, 101 Stat. 1406 (codified at 22 USCA paras 5201-5203 (West Supp. 1988))] targeted at the PLO Permanent Observer Mission in New York, of which intended closure by the United States became the subject of the *Applicability of the Obligation to Arbitrate Under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* Advisory Opinion, ICJ Rep. 1988, 12, Separate O. Schwebel, 42.

The *Achille Lauro* affair led to the adoption of the IMO Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 10 March 1988 [in force: 1 March 1992, 27 ILM 668, 685 (1988); 1678 UNTS 202, 304]. On that Convention, see *Great Belt* Pleadings, 349, 353 [Finland's Memorial]; *Congo v. Belgium Arrest Warrant of 11 April 2000* Separate O. President Guillaume, para. 8, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>. The 1988 IMO Convention and Protocol are modelled on the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal, 23 September 1971 [in force: 26 January 1973, 974 UNTS 177; 10 ILM 1151 (1971)] and Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Montreal, 24 February 1988 [in force: 6 August 1989, 27 ILM 627 (1988)].

Cf. *Questions of Interpretation and Application of the 1971 Montreal Convention Arising From the Aerial Incident at Lockerbie (Provisional Measures) Orders*, ICJ Rep. 1992, 3 [*Libya v. UK*], 114 [*Libya v. USA*], and (*Preliminary Objections*) Judgments, ICJ Rep. 1998, 9 [*Libya v. UK*], 115 [*Libya v. USA*]; Opinion of the High Court of Justiciary at Camp Zeist, 38 ILM 926 [1998 UK/Netherlands Agreement] (1999); 40 ILM 582 [Opinion] (2001); 95 AJIL 405 (2001); UN Security Council Resolution S/RES/1373 of 28 September 2001 <<http://www.law.gla.ac.uk/lockerbie>>.

On the 1971 Montreal Convention, see also *Iran v. USA Aerial Incident of 3 July 1988 – Settlement of Disputes, Preventive Diplomacy C) supra*; *Congo v. Uganda (Provisional Measures) Order*, paras 5 and 7, ICJ Rep. 2000 (in press); *Congo v. Belgium Arrest Warrant of 11 April 2000 Separate O. President Guillaume*, para. 8, ICJ Rep. 2002 (in press) <<http://www.icj-cij.org>>.

Nuclear Terrorism

2001 *Ireland v. UK Mox Plant (Provisional Measures) Order*, President P.Ch. Rao, ITLOS Case No.10, paras 26, 69; Ireland's Request and Statement, paras 28, 35, 39-43, 50, 66, 83, 101, 106-107, 118-121, UK Response, paras 6, 15, 17, 41(7), 67-71, 94(2), 116-119, 124-125, 180, 216, 220(6); Oral Hearings, ITLOS/PV.01/06, 9-10 [Agent O'Hagan, 19 Nov 2001], 22 [Counsel Fitzsimons], 29, 34 [Counsel Sands], ITLOS/PV.01/08, 9-10 [Counsel Goldsmith, 20 Nov 2001], 27-28 [Counsel Plender] <<http://www.itlos.org>>; 200-*Mox Plant Award* <<http://www.pca-cpa.org>>. Cf. *IAEA Press Release No. 26 of 30 November 2001*; *IMO News 18-23 (2001 No.4)*.

On 1986/90 *The Rainbow Warrior*, see Access to, Jurisdiction and Treatment in Ports *supra*. See also High Seas, Piracy *supra*.

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On 1921 Convention on the Non-Ratification and Neutralization of the Aaland Islands, see Straits Used for International Navigation – Longstanding International Conventions in Force *supra*.

On Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Partial Nuclear Test Ban Treaty), Moscow, 5 August 1963 [in force: 10 October 1963, 480 UNTS 43; 2 ILM 883 (1963); 57 AJIL 1026 (1963); a substantive session of the Amendment Conference of States Parties was held at UN/New York on 7-18 January 1991], see *Nuclear Tests (Interim Measures) Dissents Ignacio-Pinto*, ICJ Rep. 1973, 132, 163; *Nuclear Tests Dissent Gros*, ICJ Rep. 1974, 282, 286-288, Dissents Petren, 305, 490, Joint Dissents, 361, 368, 519, Dissent de Castro, 388 n.1, 427, Dissent Barwick, 449; *Nuclear Tests Pleadings (Australia)*, 12 [Application], 47, 49 [Request], 333-334, 370, 372 [Memorial], 520 [Counsel Byers, 9 July 1974], (New Zealand), 8 [Application], 51, 52, 55 [Request], 203 [Memorial], 264 [Counsel Finlay, 10 July 1974]; *New Zealand v. France Dissents Weeramantry*, ICJ Rep. 1995, 328, Koroma, 371, 378, Palmer, 415; 1995 NZ Request (Examination of the Situation), paras 60, 109-110; *Nuclear Weapons (UNGA) Advisory Opinion*, ICJ Rep. 1996, 249, 252, Dissents Oda, 356-357, 360-361, Weeramantry, 534.

On *Communiqué* of the ANZUS Council [1951 ANZUS Treaty, in force: 29 April 1952, 131 UNTS 85] of 5 April 1968, see *Nuclear Tests Dissent Gros*, ICJ Rep. 1974, 282.

On Treaty on the Non-Proliferation of Nuclear Weapons (NPT), 1 July 1968 [in force: 5 March 1970, 729 UNTS 161; 7 ILM 809 (1968); 62 AJIL 954 (1968); as extended indefinitely by the Review and Extension Conference of the Parties on 11 May 1995, 34 ILM 959-74 (1995)], see *Nuclear Tests Pleadings* (New Zealand), 8 [Application], 51 [Request], 203 [Memorial]; 1995 NZ Request (Examination of the Situation), para.57 n.63, para.59; *New Zealand v. France* Oral Hearings, CR 95/20, 22 [Counsel Keith, 12 Sep 1995]; *Nuclear Weapons (WHO)* Dissent Weeramantry, ICJ Rep. 1996, 160, (*UNGA*) Advisory Opinion, 245-246, 249, 251-253, 263-265, Declaration Ferrari Bravo, 284-285, Separate O. Guillaume, 292-293, Dissents Vice-President Schwebel, 312-317, 329, Oda, 358-359, 360-369, Shahabuddeen, 378-379, 381-382, 384, 400, 411, 414-420, Weeramantry, 441, 448, 488, 530-531, 534, 536-542, Koroma, 581, Higgins, 593.

On Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, Tlatelolco, 14 February 1967 [in force: 22 April 1968, 634 UNTS 281; 6 ILM 521 (1967); Status of Treaty and its Additional Protocols I and II – 28 ILM 1400 (1989); Amendments of 3 July 1990, 10 May 1991 and 26 August 1992 – UN Docs A/47/467, Annex (1992) and NPT/Conf.1995/10, Annex C], see *Nuclear Tests* Joint Dissents, ICJ Rep. 1974, 368, 520; *Pleadings* (Australia), 12 [Application], (New Zealand), 8 [Application], 51 [Request], 203 [Memorial]; *Nuclear Weapons (WHO)* Dissents Weeramantry, ICJ Rep. 1996, 140, Koroma, 209-210, (*UNGA*) Advisory Opinion, 249, 252-253, 263, Separate Os Guillaume, 291-292, Fleischhauer, 308, Dissents Vice-President Schwebel, 318, Oda, 359-360, 363, Shahabuddeen, 384, 415-416, Weeramantry, 534, 536, Koroma, 566; Oral Hearings, CR 95/33, 28-29 [Costa Rica, 14 Nov 1995].

See also IAEA/USA Agreement for the Application of Safeguards in Connection with the Tlatelolco Treaty of 17 February 1989 [in force: 6 April 1989, 28 ILM 1345 (1989)].

On Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and Ocean Floor and in the Subsoil Thereof, London, Moscow and Washington, 11 February 1971 [in force: 18 May 1972, 955 UNTS 115; 10 ILM 146 (1971)], see *Aegean Sea Pleadings*, 439 [Counsel Economides, 16 Oct 1978], 455-456 [Counsel O'Connell]; *Gulf of Maine Pleadings*, Vol.V, 520 [US Reply]; *Nuclear Tests* Dissent Koroma, ICJ Rep. 1995, 379; *Nuclear Weapons (UNGA)* Advisory Opinion, ICJ Rep. 1996, 249, Dissent Weeramantry, 534.

On UK/Malta Defence Agreement of 26 March 1972 [for 7 years, until withdrawal of British forces in 1979, 76 RGDIP 1196 (1972); 80 RGDIP 1261 (1976)], see *Libya/Malta Pleadings*, Vol.I, 27 [Libya's Memorial]. On Declaration on Malta's Neutrality of 15 May 1981 [Pleadings, Vol.I, 514], see *id.*

420, 483, 498-499 [Malta's Memorial], Vol.II, 74-75 [Libya's Counter-Memorial].

On USA/USSR Treaty on the Limitation of Underground Nuclear Weapon Tests of 3 July 1974 [in force: 11 December 1990, UN Doc. A/9698, Annex I (1974)], Protocol of 1 June 1990 as Amended on 31 December 1992/2 February 1993 [1714 UNTS 124], see *Nuclear Tests Dissent Gros*, ICJ Rep. 1974, 287-288.

On USA/USSR Treaty on Underground Nuclear Explosions for Peaceful Purposes of 28 May 1976, Protocol of 1 June 1990 [in force: 11 December 1990, 1714 UNTS 388], see *New Zealand v. France Dissent Weeramantry*, ICJ Rep. 1995, 328.

On Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques of 10 December 1976 [in force: 5 October 1978, 1108 UNTS 151], see *Nuclear Weapons (WHO) Dissent Koroma*, ICJ Rep. 1996, 216, (*UNGA*) Advisory Opinion, 241, Dissent Weeramantry, 503.

On South Pacific Nuclear Free Zone Treaty, Rarotonga, 6 August 1985 [in force: 11 December 1985, Protocols 1-3, 24 ILM 1440 (1985); status, 28 ILM 1599 (1989); Joint Declaration of 20 October 1995, UN Docs NPT/Conf.1995/11 and A/50/665-S/1995/877; Protocols 1-3 signed by France, UK and USA on 25 March 1996], see *Great Belt Pleadings*, 328 [Finland's Memorial]; *Nuclear Tests Dissent Palmer*, ICJ Rep. 1995, 389; the 1995 NZ Request (Examination of the Situation), para.60; *Nuclear Tests Oral Hearings*, CR 95/19, 23-24 [NZ, 11 Sep 1995], CR 95/23 [transl.], 35 [France, 1 Nov], CR 95/28, 42 [NZ, 9 Nov], CR 95/31, 28 [Samoa, 13 Nov], CR 95/34, 60 [UK, 15 Nov 1995]; *Nuclear Weapons (UNGA) Advisory Opinion*, ICJ Rep. 1996, 249-251, 253, 263, Separate Os Guillaume, 291, Fleischhauer, 308, Dissents Vice-President Schwebel, 318, Oda, 360, 363, Shahabuddeen, 385, Weeramantry, 534.

On Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Paris, 13 January 1993 [in force: 29 April 1997, 1974 UNTS 46; 32 ILM 800 (1993)], see *Nuclear Weapons (WHO) Dissents Weeramantry*, ICJ Rep. 1996, 134-135, 152-153, Koroma, 183, (*UNGA*) Advisory Opinion, 248, para.57, Separate O. Guillaume, 292; *Gabcikovo Oral Hearings*, CR 97/2 [trans.], 12 n.11 [Agent Szenasi, 3 March 1997].

On Southeast Asia Nuclear Weapon Free Zone Treaty, Bangkok, 15 December 1995 [35 ILM 635 (1996)], see *Nuclear Weapons (UNGA) Advisory Opinion*, ICJ Rep. 1996, 253, Dissents Vice-President Schwebel, 318, Oda, 363, Shahabuddeen, 385.

On African Nuclear Weapon Free Zone Treaty, Cairo, 11 April 1996 [35 ILM 698 (1996)], see *Nuclear Weapons (UNGA) Advisory Opinion*, ICJ Rep. 1996,

253, Dissents Vice-President Schwebel, 318, Oda, 363-364, Shahabuddeen, 385, Weeramantry, 534.

On UN Comprehensive Test Ban Treaty, New York, 24 September 1996 [35 ILM 1439 (1996)], see *Nuclear Weapons (UNGA)* Dissents Oda, ICJ Reports 1996, 339, 357, 361-362, Weeramantry, 534.

On 1939 Declaration of Panama, see Exclusive Economic (Fishery) Zone, Evolution *supra*.

On NATO shipping and treaties, see *IMCO* Pleadings, 428 [USA, 4 May 1960]; *Fisheries Jurisdiction (Merits)* Dissent Gros, ICJ Rep. 1974, 142; *Nuclear Tests* Pleadings (New Zealand), 286-288 [Counsel Quentin-Baxter, 10 July 1974]; *Gulf of Maine* Pleadings, Vol.III, 169, 374, 381 [Canada's Counter-Memorial]; *Nuclear Weapons (UNGA)* Dissents Shahabuddeen, ICJ Rep. 1996, 384, Weeramantry, 510; *Legality of Use of Force (Provisional Measures)* Orders, ICJ Rep. 1999, 124, 259, 363, 422, 481, 542, 656, 761, 826, 916 <<http://www.icj-cij.org>>.

See also Exclusive Economic Zone – Military Installations; Equitable Maritime Boundary Delimitation – Security Factors; Use of Force in Enforcement; Settlement of Disputes – Involvement of the UN Security Council *supra*.

ARCHAEOLOGICAL AND HISTORICAL OBJECTS

1982 LOSC, PART XVI, ARTICLE 303

SS Lotus PCIJ Series A, No.10 (1927) – Dissent Moore, 85; *Tunisia/Libya* Pleadings, Vol.I, 112-116 [Tunisia's Memorial], Vol.II, 153-155 [Libya's Counter-Memorial]; *Botswana/Namibia* Dissent Vice-President Weeramantry, paras 86, 91, ICJ Rep. 1999, 1181, 1184 <<http://www.icj-cij.org>>.

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], paras 11, 45 <<http://www.un.org/Depts/los/>>.

On Convention on the Protection of the World Cultural and Natural Heritage, Paris, 23 November 1972 [in force: 17 December 1975, 27 UST 37], see *Nuclear Weapons (UNGA)* Dissent Weeramantry, ICJ Rep. 1996, 455.

EQUITY

1982 LOSC, PREAMBLE 4 AND 5, PART V, ARTICLES 59, 69(1), 69(3), 70(1), 70(4) AND 74(1), PART VI, ARTICLES 82(4) AND 83(1), PART XI, ARTICLE 140(2), PART XIV, ARTICLES 266(3) AND 269(B):

Relevant Jurisprudence

Diversion of Water from the Meuse PCIJ Series A/B, No.70, 25 (1937) – Dissent Hudson, 76-77, as relied upon by *North Sea* Separate O. Jessup, ICJ Rep. 1969, 84, Separate O. Ammoun, 138, 142, 145; Pleadings, Vol.II, 200 [Counsel Shigeru Oda, 5 Nov 1968]; *Fisheries Jurisdiction (Merits)* Separate O. Dillard, ICJ Rep. 1974, 63 n.1; Pleadings (UK), 473 [Counsel Silkin, 25 March 1974]; *Tunisia/Libya (Merits)* Dissent Evensen, ICJ Rep. 1982, 290-291; Pleadings, Vol.I, 166-167 [Tunisia's Memorial], Vol.IV, 417 [Counsel Sir Robert Jennings, 16 Sep 1981]; *Nicaragua v. USA (Provisional Measures)* Dissent Schwebel, ICJ Rep. 1984, 198-199, and (*Merits*) Dissent Schwebel, ICJ Rep. 1986, 259, 380-381, 392-393; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 234-236, 255 n.1; *Gabcikovo* Separate O. Koroma, ICJ Rep. 1997, 149-152, Dissent Skubiszewski, 238-239.

Corfu Channel (Compensation) ICJ Rep. 1949, 244 [the first instance of applying by the Court of equity in the field of quantification of monetary sums due in reparation claims and related types of cases] – Judgment, 249, Dissent Ecer, 253-256, as reaffirmed by *Judgments of the Administrative Tribunal of the I.L.O. Upon Complaints Made Against UNESCO* Advisory Opinion, ICJ Rep. 1956, 100; and *North Sea Continental Shelf* Judgment, ICJ Rep. 1969, 48-49, para.88; as relied upon by *Gulf of Maine* Dissent Gros, ICJ Rep. 1984, 383; *Denmark v. Norway* Separate O. Shahabuddeen, ICJ Rep. 1993, 192, 194.

Belgium v. Spain Barcelona Traction, Light and Power Company, Limited (Second Phase) Judgment, ICJ Rep. 1970, 48-50, Separate O. Sir Gerald Fitzmaurice, 85-86, Separate O. Ammoun, 332-333; as relied upon by *Gulf of Maine* Dissent Gros, ICJ Rep. 1984, 384; Pleadings, Vol.VII, 30-31 [Counsel Weil, 3 May 1984]; *Libya/Malta* Pleadings, Vol.II, 316 n.3 [Malta's Counter-Memorial]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 232 n.1, 233, 238 n.3, 240; Oral Hearings, CR 93/8 [trans.], 64 [Counsel Weil, 20 Jan 1993].

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99, 103-104, 225, Dissent Gros, 136, 138-139, 146-147; *Fisheries Jurisdiction Pleadings* (UK), 372-374 [Memorial (Merits)], 473 [Counsel Silkin, 25 March 1974], (FRG), 257-259 [Memorial (Merits)]. Cf. *Gulf of Maine* Dissent Gros, ICJ Rep. 1984, 384-385; Pleadings, Vol.I, 119 [Canada's Memorial], Vol.III, 196-197, 206, 218 [Canada's Counter-Memorial], Vol.V, 15, 30-31 [Canada's Reply], Vol.VI, 90-91 [Counsel Binnie, 4 April 1984], 171 [Counsel Weil, 6 April], Vol.VII, 28 [Weil, 3 May], 88-91 [Binnie, 4 May 1984]; *Libya/Malta Pleadings*, Vol.III, 375 [Counsel Weil, 29 Nov 1984], Vol.IV, 97-98 [Counsel Colliard, 11 Dec 1984]; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 236, 238-239; *Gabcikovo* Dissent Skubiszewski, ICJ Rep. 1997, 239; *Botswana/Namibia* Separate O. Kooymans, para.24, ICJ Rep. 1999, 1148 <<http://www.icj-cij.org>>; Oral Hearings, CR 99/5 [trans], 30 [Counsel Cot, 18 Feb 1999]; *Southern Bluefin Tuna (Jurisdiction)* Hearings, Vol.I [Counsel Lowe, 7 May 2000] <<http://www.worldbank.org/icsid>>.

Interpretation of the Agreement of 25 March 1951 Between the WHO and Egypt Advisory Opinion, ICJ Rep. 1980, 96, para.49, as relied upon by *Great Belt Pleadings*, 642-643 [Denmark's Counter-Memorial]; *Panama v. France Camouco* Separate O. Vice-President Nelson, n.6, ITLOS Case No.5 <<http://www.itlos.org>>.

Burkina Faso/Mali Frontier Dispute Judgment, ICJ Rep. 1986, 567-568, 631-633, Separate O. Abi-Saab, 662, as relied upon by the *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 396, 514; *Denmark v. Norway* Separate Os Shahabuddeen, ICJ Rep. 1993, 188, Ajibola, 296-297; *Botswana/Namibia* Oral Hearings, CR 99/5 [trans], 30 [Counsel Cot, 18 Feb 1999].

Libya/Chad Separate O. Ajibola, ICJ Rep. 1994, 59; *East Timor* Dissent Weeramantry, ICJ Rep. 1995, 203; *Nuclear Weapons* Oral Hearings, CR 95/20, 65-66 n.53 [Australia, 30 Oct 1995].

1997 *Inter-Entity Boundary in Brcko Area* Award, paras 87-94, President Roberts B. Owen, 36 ILM 369 (1997) [1999 Final Award, 38 ILM 534 (1999) and 39 ILM 879 (2000)]; 1998 *Eritrea/Yemen Territorial Sovereignty (Phase I)* Award, President Sir Robert Jennings, paras 108-113 [40 ILM 900 (2001) <<http://www.pca-cpa.org>>; 2000 *Australia and New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction)* Award, President Stephen M. Schwebel, Award, paras 41(c) and 64, 39 ILM 1359 (2000); A/NZ Reply, paras 38, 68 and 180-184 <<http://www.worldbank.org/icsid>>; 2002 *UN Eritrea/Ethiopia Boundary Commission*, President Sir Elihu Lauterpacht [see *Equitable Maritime Boundary Delimitation supra*].

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Territorial Jurisdiction of the International Commission of the River Oder Judgment, PCIJ Series A, No.23, 27 (1929), as reaffirmed by *Gabcikovo* Judgment, ICJ Rep. 1997, 56, para.85; *Botswana/Namibia* Separate O. Kooymans, para. 30, ICJ Rep. 1999, 1150 <<http://www.icj-cij.org>>.

Oscar Chinn Judgment, PCIJ Series A/B, No.63 (1934), 65; 1937 *Diversion of Water from the Meuse* Judgment and Dissent Hudson [see *supra*]; *North Sea* Separate O. Jessup, ICJ Rep. 1969, 82; Pleadings, Vol.I, 464-465 [Common Rejoinder of Denmark/NL], Vol.II, 128 [Agent Riphagen, 30 Oct 1968], 178-179 [Agent Jaenicke, 4 Nov], 215-216 [Riphagen, 7 Nov 1968]; *Gulf of Maine* Pleadings, Vol.III, 189, 198, 201 [Canada's Counter-Memorial]; *Libya/Malta* Pleadings, Vol.I, 124 [Libya's Memorial]; *Great Belt* Pleadings, 316 [Finland's Memorial], 556-557 [Denmark's Counter-Memorial]; *Gulf of Fonseca* Judgment, ICJ Rep. 1992, 602; *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 247, 248-249, 262, 277; *Oil Platforms (Preliminary Objection)* Judgment, ICJ Rep. 1996, 819, Separate O. Higgins, 859-860, Dissent Vice-President Schwebel, 887-888.

Hungary/Slovakia Gabcikovo-Nagymaros Project Judgment, ICJ Rep. 1997, 8, Declaration President S.M. Schwebel, 85, Declaration Rezek, 86, Separate Os Vice-President Weeramantry, 88, Bedjaoui, 120, Koroma, 142, Dissents Oda, 153, Ranjeva, 170, Herczegh, 176, Fleischhauer, 204, Vereshchetin, 219, Parra-Aranguren, 227, Skubiszewski, 232; Orders, ICJ Rep. 1994, 151, 1997, 3.

For Czechoslovakia/Hungary Agreement on Mutual Assistance in the Construction of the Gabcikovo-Nagymaros System of Locks of 16 September 1977 [in force: 30 June 1978], as Amended by Protocol of 10 October 1983 [in force: 7 February 1984] and Protocol of 6 February 1989 [terminating 1983 Protocol], see 1724 UNTS 120; 32 ILM 1247 (1993). For Czech and Slovak Federation/EC/Hungary Agreement on the Gabcikovo-Nagymaros Project of 28 October 1992, see 32 ILM 1291 (1993). For Hungary/Slovakia Special Agreement of 7 April 1993 [in force: 26 June 1993], see 1725 UNTS 226; 32 ILM 1293 (1993).

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Botswana/Namibia Kasikili Sedudu Judgment – see Equitable Maritime Boundary Delimitation, Thalweg Principle/Lakes and Rivers *supra*.

M/V Saiga Separate O. Laing [38 ILM 1323 (1999)], paras 24-26; 2000 *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, Japan's Memorial, para.122 n.91 <<http://www.worldbank/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Ireland's Request & Statement, paras 92-93 <<http://www.itlos.org>>.

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On 1921 Barcelona and 1948 Danube Conventions, see Rights of Access of Land-Locked States to and from the Sea and Freedom of Transit *supra*.

On 1954 USA/Canada Great Lake Fisheries Convention, see Fisheries *supra*.

On 1958 Danube Fishing Convention, see Fisheries *supra*.

On Fort Lamy (N'Djamena) Convention and Statute on the Development of the Lake Chad Basin, Yaounde, 22 May 1964, as Amended on 22 October 1972, see *Cameroon v. Nigeria (Preliminary Objection)* Judgment, ICJ Rep. 1998, 285, 288, 304-313, Dissent Ajibola, 404-407, 417; Oral Hearings, CR 98/1, 63-75 [Counsel Brownlie, 2 March 1998].

On 1976 Budapest Convention and 1984 Canada/USA Treaty, see Protection and Preservation of the Marine Environment *supra*.

On 1992 UN ECE Watercourses Convention, 1994 Danube Convention. 1976 Pollution of the Rhine by Chlorides Convention and 1997 UN International Watercourses Convention, see Protection and Preservation of the Marine Environment *supra*.

See also Internal Waters, Territorial Sea and Baselines – Mouth of Rivers; Equitable Maritime Boundary Delimitation – Thalweg Principle/Lakes and Rivers; Regime of Islands – Islands in Lakes and Rivers; Protection and Preservation of the Marine Environment – Environmental Protection of Lakes and Rivers *supra*.

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On 1892 Judgment of the French Cour de Cassation, see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 126 n.1.

On 1902 *France/Venezuela Frederick & Co. Award* [No.260/Stuyt], see *North Sea Separate O. Ammoun*, ICJ Rep. 1969, 142 n.4.

On 1910 *USA/Venezuela Orinoco Steamship Company Award*, see Settlement of Disputes – Interpretation or Application *supra*.

On 1913 *UK/USA The Yukon Lumber Award* [7 AJIL 687, 885 (1913); No.303/Stuyt], see *Eastern Greenland Pleadings*, PCIJ Series C, No.62, 493, 520 [Norway's Counter-Memorial], No.63, 841 [Denmark's Reply]; *Ambatielos Pleadings*, 101 [Greece's Memorial]; *Gulf of Maine Pleadings*, Vol.IV, 105-106 [US Counter-Memorial], Vol.V, 86 n.27 [Canada's Reply], Vol.VI, 374 [Counsel Rashkov, 16 April 1984].

On 1914 *Netherlands/Portugal Island of Timor Award*, see Regime of Islands, Sovereignty Over Island Territory *supra*.

On 1922 *Norway/USA Norwegian Shipowners' Claim Award*, see High Seas *supra*.

On 1926 *UK v. USA Cayuga Indians Award* [RIAA VI, 173, 179-184; 20 AJIL 574 (1926); No.303/Stuyt], see *Barcelona Traction (Second Phase)* Separate O. Sir Gerald Fitzmaurice, ICJ Rep. 1970, 84; *Aegean Sea*

(*Jurisdiction*) Separate O. Lachs, ICJ Rep. 1978, 50; 1997 *Brcko Award* [*supra*], para.88; *Cameroon v. Nigeria* Oral Hearings, CR 98/1, 35 [Counsel Sir Arthur Watts, 2 March 1998].

On 1928 *UK/Turkey W.J. Armstrong & Co. Ltd. v. Vickers Ltd.* Award, see *North Sea* Separate O. Ammoun, ICJ Rep. 1969, 142 n.4.

On 1928 *France/Mexico Pinson Award* [No.363/Stuyt], see *Denmark v. Norway* Separate O. Weeramantry, ICJ Rep. 1993, 247 n.3.

On 1928 *Portugal v. Germany Naulilaa Award*, see *High Seas supra*.

On 1934 *New Jersey v. Delaware* Judgment, see *Equitable Maritime Boundary Delimitation supra*.

On 1968 *India/Pakistan Rann of Kutch Award*, see *Regime of Islands, Sovereignty Over Island Territory supra*.

See also *Equitable Maritime Boundary Delimitation supra*.

PRIVILEGES AND IMMUNITIES OF THE LOSC INSTITUTIONS AND THEIR RELATIONSHIP WITH THE UNITED NATIONS

CLCS

– 1982 LOSC, Part VI, Article 76(8), and Annex II; Legal Opinion of the United Nations Legal Counsel Hans Corell on the Applicability of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 [1 UNTS 15 and 90 UNTS 327] to the Members of the Commission, UN Docs CLCS/5 (1998) and SPLOS/28 (1998).

ISBA

– 1982 LOSC, Part XI, Articles 176-183, and Annex IV, Article 13; Agreement on Relationship Between the United Nations and the International Seabed Authority, New York, 14 March 1997 [in force: 26 November 1997, UNGA Resolution 52/27, 1967 UNTS 256; 36 ILM 1492 (1997)] and Protocol on the Privileges and Immunities of the International Seabed Authority of 26 March 1998; Headquarters Agreement Between the International Seabed Authority and the Government of Jamaica.

ITLOS

– 1982 LOSC, Annex VI, Article 10; Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, New York, 23 May 1997 [not yet in force]; Headquarters Agreement Between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

Agreement on Cooperation and Relationship Between the United Nations and the International Tribunal for the Law of the Sea, New York, 18 December 1997 [in force: 8 September 1998, UNGA Resolution 52/251]. See *Saint Vincent and the Grenadines v. Guinea Saiga (Merits)* Judgment, para.3, ITLOS Case No.2, 38 ILM 1323 (1999); *Panama v. France Camuco (Prompt Release)* Judgment, para.7, ITLOS Case No.5, 39 ILM 666 (2000); *Seychelles v. France Monte Confurco (Prompt Release)* Judgment, para.7, ITLOS Case No.6; *Belize v. France Grand Prince (Prompt Release)* Judgment, para.5, ITLOS Case No.8; *Ireland v. UK Mox Plant (Provisional Measures)* Order, para.10, ITLOS Case No.10 <<http://www.itlos.org>>.

Special Agreement Extending the Jurisdiction of the Administrative Tribunal of the United Nations to the International Tribunal for the Law of the Sea with Respect to Applications by Staff Members of the ITLOS Alleging Non-Observance of the Regulations of the United Nations Joint Staff Pension Fund, Hamburg, 25 February 1998 [in force (retroactively): 1 January 1997, 2006 UNTS 494].

Cf. *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations ('Mazilu')* Advisory Opinion, ICJ Rep. 1989, 177; *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* Advisory Opinion, President M. Bedjaoui concurring, ICJ Rep. 1996, 78-79, para.25; *Difference Relating to Immunity From Legal Process of a Special Rapporteur of the Commission on Human Rights* Advisory Opinion, ICJ Rep. 1999, 62, President S.M. Schwebel concurring, Separate Op Vice-President Weeramantry, 92, Oda, 99, Rezek, 109, Dissent Koroma, 111.

SIGNATURE, RATIFICATION AND ACCESSION

1958 TSC, ARTICLES 26-28, 31; 1958 HSC, ARTICLES 31-33, 36; 1958 HSFC, ARTICLES 15-17, 21; 1958 CSC, ARTICLES 8-10, 14; 1958 DSP, ARTICLES V-VI

1982 LOSC, PART I, ARTICLE 1(2), PART XVII, ARTICLES 305-307, 319, AND ANNEX IX

1994 AGREEMENT, ARTICLES 2-8

1995 SSA, ARTICLES 1(2), 37-39 AND 47

Corfu Channel Pleadings, Vol.III, 269-271 [Agent Sir Eric Beckett, 11 November 1948]; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* Advisory Opinion, ICJ Rep. 1951, 28; *Anglo/Norwegian Fisheries* Pleadings, Vol.I, 395-396 [Norway's Counter-Memorial], Vol.II, 432-439 [UK Reply], Vol.III, 301-302 [Norway's Rejoinder]; *North Sea* ICJ Rep. 1969, 3 – Judgment, 42-43, paras 73-74, 43, para.76, Separate O. Padilla Nervo, 89, 94-95, 99, Separate O. Ammoun, 102-103, 128,

129-130, Dissents Tanaka, 173, 175-176, Morelli, 197, Lachs, 226-229, 232-233, 238, Sorensen, 241, 246; *North Sea Pleadings*, Vol.I, 192 [Denmark's Counter-Memorial], 343 [NL Counter-Memorial], 399-401, 407-410 [FRG Reply], 490-491, 507-508 [Common Rejoinder of Denmark/NL], Vol.II, 100-101, 102, 105 [Counsel Sir Humphrey Waldock, 29 Oct 1968]; *Fisheries Jurisdiction Pleadings* (UK), 468-469 [Counsel Silkin, 25 March 1974], (FRG), 295-296 [Agent Jaenicke, 28 March 1974]; *Tunisia/Libya (Merits)* Dissent Oda, ICJ Rep. 1982, 162, 170-171; *Gulf of Maine* Judgment, ICJ Rep. 1984, 286-287; Pleadings, Vol.IV, 97-100, 137-140 [US Counter-Memorial], Vol.V, 33, 98-99 [Canada's Reply]; *Libya/Malta (Merits)* Judgment, ICJ Rep. 1985, 29-30, Separate O. Vice-President Sette-Camara, 68, Dissent Oda, 140; *Guinea-Bissau v. Senegal (Provisional Measures)* Separate O. Evensen, ICJ Rep. 1990, 72; *Denmark v. Norway* Judgment, ICJ Rep. 1993, 59, Declaration Evensen, 84, Separate Os Shahabuddeen, 131-132, Ajibola, 288-289; Oral Hearings, CR 93/6, 39-40 [Agent Haug, 18 Jan 1993]; *Qatar v. Bahrain (Merits)* Judgment, President G. Guillaume, ICJ Rep. 2001 (in press), paras 45-47, 88-89, 167, Dissent Torres Bernardez, paras 10, 255-257 <<http://www.icj-cij.org>>.

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For the lists of signatures, ratifications and accessions to the four 1958 Geneva Conventions as at 30 May 1999, see UN Doc. ST/LEG/SER.E/17 (1999).

For the lists of signatures, ratifications and accessions to the 1982 LOSC, the 1994 Agreement and the 1995 SSA, see *id*; and <<http://www.un.org/Depts/los/>>.

RESERVATIONS AND DECLARATIONS

1958 HSFC, ARTICLE 19; 1958 CSC, ARTICLE 12

1982 LOSC, PART XVII, ARTICLES 309-310, AND ANNEX IX

1994 AGREEMENT, ARTICLE 2(2)

1995 SSA, ARTICLES 42-43 AND 47

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide Advisory Opinion, ICJ Rep. 1951, 15; *Anglo/Norwegian Fisheries* Judgment, ICJ Reports 1951, 139; *North Sea* Judgment, ICJ Reports 1969, 26-27, paras 29-33, and 38-40, paras 63-66, 41, para.67, 42, para.72, as relied upon by

Yugoslavia v. USA Legality of Use of Force (Provisional Measures) Dissent Kreca, ICJ Rep. 1999, 965, para.10; *North Sea* Separate O. President Bustamante y Rivero, ICJ Rep. 1969, 57, Separate Os Padilla Nervo, 87, 88-89, 92, 94, 95, 97-98, Ammoun, 114, 130, Dissent Vice-President Koretsky, 163, Dissents Tanaka, 182, Morelli, 198, Lachs, 223-225, Sorensen, 248, 252-253; *North Sea* Pleadings, Vol.I, 56-58 [FRG Memorial], 187, 190-191 [Denmark's Counter-Memorial], 312-313, 339-340, 343-345 [NL Counter-Memorial], 401, 409-413 [FRG Reply], 513-517 [Common Rejoinder of Denmark/NL], Vol.II, 17-20, 25 [Agent Jaenicke, 23 Oct 1968], 87-88, 106-109 [Sir Humphrey Waldoock, 28 and 29 Oct], 175, 206 [Jaenicke, 4 and 5 Nov], 243 [Reply by Waldoock to Questions Fitzmaurice, 8 Nov 1968]; *Aegean Sea (Jurisdiction)* Judgment, ICJ Rep. 1978, 23, para.55, 33, para.80, Dissents de Castro, 68-71, Stassinopoulos, 74-81; Pleadings, 238-259 [Greece's Memorial (Jurisd.)], 341-346 [Counsel O'Connell, 10 Oct 1978], 381-425 [Counsel Weil, 12 and 13 Oct 1978], 426-439 [Counsel Economides]; *Gulf of Maine* Judgment, ICJ Rep. 1984, 279-281, 301, Dissent Gros, 375; Pleadings, Vol.V, 398 [US Reply]; *Libya/Malta* Pleadings, Vol.I, 450-451 [Malta's Memorial]; *Yugoslavia v. USA* (paras 21-25) and *Yugoslavia v. Spain* (paras 29-33) *Legality of Use of Force (Provisional Measures)* Orders, ICJ Rep. 1999, 772, 923-924 <<http://www.icj-cij.org>>.

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For reservations and declarations concerning the four 1958 Geneva Conventions as at 30 May 1999, see UN Doc. ST/LEG/SER.E/17 (1999).

For declarations and statements concerning the 1982 LOSC, the 1994 Agreement and the 1995 SSA, see *id*; and <<http://www.un.org/Depts/los/>>.

AMENDMENT AND REVISION

1958 TSC, ARTICLES 30 AND 31(C); 1958 HSC, ARTICLES 35 AND 36(C); 1958 HSFC, ARTICLES 20 AND 21(C); 1958 HSC, ARTICLES 13 AND 14(C)
1982 LOSC, PART XVII, ARTICLES 312-316, 319; 1994 AGREEMENT, SEC.4
1995 SSA, ARTICLE 45

North Sea Judgment, ICJ Rep. 1969, 42, para.72, Separate O. Padilla Nervo, 87; Pleadings, Vol.II, 198 [Counsel Shigeru Oda, 5 Nov 1968].

2000 *Southern Bluefin Tuna (Jurisdiction)*, President S.M. Schwebel, A/NZ Reply, para.144 <<http://www.worldbank.org/jcsid>>.

PARTICIPATION BY INTERNATIONAL ORGANIZATIONS

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1994 AGREEMENT, ARTICLES 3-5, 7 AND 8(2)

1995 SSA, ARTICLE 47

North Sea Pleadings, Vol.II, 269 [Sir Humphrey Waldock, 11 Nov 1968]; *Nuclear Tests Dissent Gros*, ICJ Rep. 1974, 284; *Spain v Canada Fisheries (Jurisdiction)* Judgment, ICJ Rep. 1998, 447, paras 25, 27, Dissent Vereshchetin, 573, para.7; Oral Hearings, CR 98/9 [transl.], 8, 13 [Agent Pastor Ridruejo, 9 June 1998], 24 [Counsel Rodriguez], 35-43 [Counsel Brotons], CR 98/12 [trans.], 44-53 [Counsel Weil, 12 June], CR 98/13, 11-12 [Pastor Ridruejo, 15 June 1998], 25-28 [Brotons] <<http://www.icj-cij.org>>.

The Queen v. The Secretary of State for Trade and Industry Ex Parte Greenpeace Ltd. Judgment, Justice Maurice Kay, Case No. CO/1336/1999; 2000 *Southern Bluefin Tuna (Jurisdiction)* Japan's Memorial, para.90 <<http://www.worldbank.org/icsid>>.

On French nuclear tests carried in Algeria in 1960/63 in compliance with the 1957 EURATOM Treaty, see Peaceful Uses of the Sea – Nuclear Weapon Tests *supra*. On the EURATOM Treaty, see also Protection and Preservation of the Marine Environment *supra*.

On Directive 80/836/EURATOM, as amended by Directive 84/467/EURATOM, on Directive 96/29/EURATOM, on Council Directives 85/337/EEC as amended by Directive 97/11/EEC, and on the 1997 EIA Mox Plant Opinion of the EC Commission, see Protection and Preservation of the Marine Environment – EIA/Notification/ Consultation *supra*.

See also *Nuclear Weapons (UNGA)* Dissent Oda, ICJ Rep. 1996, 338, 339.

On Protocol 6 (Article 2) to EC/Iceland Free Trade Agreement of 22 July 1972 [in force: 1 April 1973], see *Fisheries Jurisdiction (Merits)* Dissents Gros, ICJ Rep. 1974, 139-140, 141, 142, 235-236; Pleadings (FRG), 474 [Question Judge Gros, 25 March 1974], (UK), 505-506 [Reply Counsel Slynn, 29 March 1974]; (FRG), 350, 352-353 [Question Gros, 28 March, and Reply Agent Jaenicke, 2 April 1974].

After previous repeated suspension of the application of Protocol 6 to Icelandic fish products, the Community ultimately allowed, under the EC Council Regulation No.76 of June 1976 amending Protocol 6, customs duties on imports of fish from Iceland to be reduced [OJEC L 217/1 (1976)], as followed

by the EC Council's Hague Resolution on 200-mile EFZs [15 ILM 1425 (1976); OJEC C 105/1 (1981)].

On EC/Norway Agreement of 14 May 1973 [in force: 1 July], see *Fisheries Jurisdiction (Merits)* Dissent Gros, 140, 141-142.

On the EC Common Fisheries Policy in 1977/1983, see *Aegean Sea Pleadings*, 338 [Counsel O'Connell, 10 Oct 1978]; *Tunisia/Libya Pleadings*, Vol.II, 203 [Libya's Counter-Memorial]; *Gulf of Maine Pleadings*, Vol.VII, 260-262 [Counsel Colson, 11 May 1984]; *Denmark v. Norway Oral Hearings*, CR 93/2, 45-51 [Counsel Trolle, 12 Jan 1993]; *Spain v. Canada Pleadings*, 60-63 [Spain's Memorial].

On EC/Denmark(Greenland) Fisheries Agreement of 29 January 1985 [signed on 13 March 1984, OJEC L 29/8 (1985); Council Regulation No.3926, OJEC L 397/65 (1992), No.3363, OJEC L 363 (1994)] and Protocol of 30 June 1989 [1 January 1990/31 December 1994, OJEC L 389/80 (1989) and L 252/2 (1990)], see *Denmark v. Norway Judgment*, ICJ Rep. 1993, 71, Dissent Fischer, 311; Denmark's Memorial, paras 139-145, 176-177, 308, Denmark's Reply, paras 118-130, 305-306; Oral Hearings, CR 93/2, 29-31 [Counsel Lynge, 12 Jan 1993], 46-49, 54-55 [Counsel Trolle], CR 93/5, 65 [Agent Tresselt, 15 Jan 1993].

On EC/Morocco Fisheries Agreements of 25 February 1988 [OJEC L 72/50 99/45, 181/1, 301/67 (1988); L 208/39, 333/66 (1990)] and 30 March 1992 [OJEC L 21, 91, 218, 407/1 (1992)], see *East Timor Oral Hearings*, CR 95/4 [trans.], 64-65 [Co-Agent Teles, 1 Feb 1995], CR 95/9, 82-87 [Co-Agent Burmester, 8 Feb], CR 95/10, 8-11 [9 Feb], CR 95/12, 77-82 [Co-Agent Correia, 13 Feb], CR 95/14, 63-67, 69 [Counsel Crawford, 16 Feb 1995].

On EC/USA Fisheries Agreements of 1977, 1984 and 1989 [OJEC L 141/2 (1977), L 272/1 (1984) and L 63/22 (1989)], see *Southern Bluefin Tuna (Jurisdiction) Hearings*, Vol.I [Counsel Sir Elihu Lauterpacht, 7 May 2000], Vol.III [Question 9 of Arbitrators, 10 May], Vol.IV [Question 10 of Sir Kenneth Keith, 11 May], Written Replies of the Parties to Questions 9-10 of Arbitrators [26 May 2000] <<http://www.worldbank.org/icsid>>.

On EC/Canada Fisheries Agreement of 20 April 1995 [OJEC L 327/20 (1995)], see *Spain v. Canada (Jurisdiction) Judgment*, ICJ Rep. 1998, 437, para.12, at 444-447, paras 21-22, 25-27, at 468, para.88, Separate O. Oda, 484, para.18, Dissent Torres Bernardez, 589, 594, paras 19, 35; Pleadings, 63-67, 130-136 [Spain's Memorial], 215 n.10, 222 n.34, 266, 291-296 [Canada's Counter-Memorial], Hearings, CR 98/9 [trans.], 13 [Agent Pastor Ridruejo, 9 June 1998], 35-41, 47-48 [Counsel Brotons], CR 98/12 [trans.], 46-47, 50-53 [Counsel Weil, 12 June], CR 98/13, 11-12 [Pastor Ridruejo, 15 June 1998].

On EC protest against the *Estai's* arrest, see Judgment, ICJ Rep. 1998, 444, para.20, Dissents Weeramantry, para.40, Torres Bernardez, paras 33-35, 42;

Pleadings, 32-40 [Spain's Memorial], Hearings, CR 98/9 [trans.], 23 [Counsel Rodriguez, 9 June 1998], CR 98/12 [trans.], 48-49 [Counsel Weil, 12 June 1998] <<http://www.icj-cij.org>>.

On EC Council Regulation No.3760 on a Community System for Fisheries and Aquaculture of 20 December 1992 [OJEC L 389/1 (1992); as Amended by No.1181, in OJEC L 164/1 (1998)] and Regulation No.894 Laying Down Certain Technical Measures for the Conservation of Fisheries Resources of 29 April 1997 [OJEC L 132/1 (1997)], see *Spain v. Canada (Jurisdiction)* Judgment, ICJ Rep. 1998, 461, para.70; Pleadings, 60 n.58 [Spain's Memorial], 295 n.302; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate O. Anderson, para.3; Ireland's Request & Statement, para.5 <<http://www.itlos.org>>.

On EC transport policy, see *Great Belt* Pleadings, 446-449, 578-579 [Denmark's Counter-Memorial].

On EC position on armed incidents in the Bakassi Peninsula, see *Cameroon v. Nigeria (Provisional Measures)* Separate O. Ajibola, ICJ Rep. 1996, 39, 43; Oral Hearings, CR 96/2, 54 [Counsel Pellet, 5 March 1996].

On the 1992 Maastricht Treaty, as amended by the 1997 Amsterdam Treaty, see Protection and Preservation of the Marine Environment *supra*.

On Article 177 (preliminary ruling), presently Article 234, of the EC Treaty, see *Oil Platforms (Preliminary Objection)* Separate O. Rigaux, ICJ Rep. 1996, 871-872.

On Directive 92/43/EEC on the Protection of Habitats, see Protection and Preservation of the Marine Environment – Marine Biodiversity *supra*.

On EC mediation with respect to the Gabčíkovo-Nagymaros Project, see *Gabčíkovo* Judgment, ICJ Rep. 1997, 27, 48-50, 73, 79, Dissents Herczegh, 184, Vereshchetin, 222; Oral Hearings, CR 97/2, 38-39 [Agent Szenasi, 3 March 1997], CR 97/5 [trans.], 9-10 [Counsel Kiss, 6 March], CR 97/6, 27 [Counsel Sands, 7 March], CR 97/6, 62 [Counsel Dupuy], CR 97/7 [trans.], 33 [Co-Agent Mikulka, 24 March], CR 97/7, 55 [Counsel McCaffrey], CR 97/10, 41-51 [Counsel Refsgaard, 26 March], 51-56 [Counsel Watts], CR 97/11, 10, 21-22 [27 March 1997], 25-26 [Mikulka] <<http://www.icj-cij.org>>. For London Agreement of 28 October 1992, see 32 ILM 1291 (1993).

On *EC/Chile Swordfish*, suspended ITLOS Case No.7, President Rao, 40 ILM 475 (2001) and WTO Panel, see Fisheries *supra* <<http://www.europa.eu.int/comm/trade/miti/dispute/swordfish.htm>>.

See also the Fourth EC-African, Caribbean and Pacific (ACP) States Convention, Lomé, 15 December 1989 [29 ILM 783 1990], as amended by Mauritius Agreement of 4 November 1995 [ACP-EU Courier No.155, January 1996]; as superseded by the EC-ACP Partnership Agreement, Cotonou, 23 June 2000 [ACP-EU Courier, Special Issue, September 2000].

For Declaration made by the European Community upon its signature of the 1982 LOSC on 7 December 1984, see *UN LOS Bull.* 16 (1985 No.4), and for Declaration made upon its formal confirmation of the 1982 LOSC and the 1994 Agreement on 1 April 1998, see *id.* 7 (1998 No.37) <<http://www.un.org/Depts/los/>>. For Declaration made by the European Community upon its signature of the 1995 SSA on 27 June 1996, see *id.* 26 (1996 No.32). Cf. *Spain v. Canada (Jurisdiction)* Dissent Bernardez, ICJ Rep. 1998, 728, para.409; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* UK Response, paras 168-170 and Annex 18; Oral Hearings, ITLOS/PV.01/08, 23-24 [Counsel Plender, 20 Nov 2001], ITLOS/PV.01/09, 15 [Counsel Lowe] <<http://www.itlos.org>>.

RELATION TO OTHER CONVENTIONS

1958 TSC, ARTICLE 25; 1958 HSC, ARTICLE 30
1982 LOSC, PART XII, ARTICLE 237, PART XVII, ARTICLES 311 AND 319(2)(C)
1995 SSA, ARTICLE 44

Gulf of Maine Pleadings, Vol.VII, 189 [Counsel Stevenson, 9 May 1984]; *Great Belt* Pleadings, 152 [Counsel de Arechaga, 2 July 1991], 324 [Finland's Memorial], 624 [Denmark's Counter-Memorial]; *Denmark v. Norway* Separate O. Shahabuddeen, ICJ Rep. 1993, 132; Norway's Counter-Memorial, para.314; Oral Hearings, CR 93/6, 48-49 [Agent Haug, 18 Jan 1993].

1986 *Canada/France* Award, para.51 [see Fisheries *supra*]; 2000 *Australia and New Zealand v. Japan Southern Bluefin Tuna (Jurisdiction)* Arbitral Tribunal: President Stephen M. Schwebel (USA/ICJ), Chusei Yamada (Japan), Sir Kenneth Keith (New Zealand), Florentino P. Feliciano (Philippines), Per Tresselt (Norway) – Award, 39 ILM 1359 (2000), paras 27-34, 38, 41, 47-52, 54; Japan's Memorial, paras 116-131, A/NZ Reply, paras 39-53, 106, 143-148, 152-163, Hearings, Vol.I [Sir Elihu Lauterpacht, 7 May 2000], Vol.II [Counsels Crawford, Irwin, 8 May], Vol.III [Questions of Arbitrators, Lauterpacht, 10 May], Vol.IV [Counsel Mansfield, 11 May]; Written Answers of the Parties to Questions of Arbitrators [26 May 2000] <<http://www.worldbank.org/icsid>>; 2001 *Ireland v. UK Mox Plant (Provisional Measures)* Separate Os Vice-President Nelson, paras 5-7, Treves, para.4; Ireland's Request & Statement, para.138, UK Response, para.136; Oral Hearings, ITLOS/PV.01/07, 10-14 [Counsel Lowe, 19 Nov 2001], ITLOS/PV.01/08, 21-22 [Counsel Plender, 20 Nov 2001] <<http://www.itlos.org>>.

Cf. Settlement of Disputes – 1982 LOSC, Article 281 and Article 282 *supra*.

See also T. Scovazzi *et al.* eds, *Index of Multilateral Treaties on the Law of the Sea* (Milano 1985); Summary Information on the Role of International Fishery

and Other Bodies with Regard to the Conservation and Management of Living Resources of the High Seas, UN Doc. FAO Fisheries Circular No.908 (1996); *The Law of the Sea – Multilateral Treaties: A Reference Guide to Multilateral Treaties and Other International Instruments Related to the United Nations Convention on the Law of the Sea (Revised and Updated as of 31 December 1996)* (United Nations: New York 1997); *Register of International Treaties and Other Agreements in the Field of the Environment 1996* (UNEP 1997); Status of Multilateral Conventions and Instruments in Respect of Which the IMO or Its Secretary-General Performs Depositary Functions as at 31 December 2000, UN Doc. IMO J/7772; *Millennium Summit Multilateral Treaty Framework: An Invitation to Universal Participation* (United Nations: New York 2000); *International Instruments Related to the Prevention and Suppression of International Terrorism* (United Nations: New York 2001) <<http://www.untreaty.un.org/English/terrorism.asp>>; *Compendium of International Arrangements on Transfer of Technology: Selected Instruments* (United Nations: New York and Geneva 2001).

For recent developments, see the annual *Oceans and the Law of the Sea – Reports of the United Nations Secretary-General*, of which the latest is UN Doc. A/56/58 and Add.1 (2001); and *The Law of the Sea – A Bibliography 2000* (United Nations: New York 2001), issued annually.