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Chapter 6

Law and Conflict at Sea*

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Whether or not the negotiating texts of the Law of the Sea Conference result in a "new" law of the sea, it is becoming clear the "the potential for conflict between developing coastal states and the naval powers is significant enough that the latter should begin to develop policies for meeting challenges to their military uses of the oceans." This paper reviews some of the areas of potential conflict and suggests several points to be considered in the development of policy.

There is a burgeoning literature that deals with military implications of the new law of the sea regime. Within that literature, the range of predictions could hardly be wider. One author has argued that the rules emerging from the Third United Nations' Conference on the Law of the Sea (UNCLOS III) signal the exclusion of naval forces from all but friendly waters.[1] But another knowledgeable writer has hypothesized that naval diplomacy will become *more* effective because deployed forces will be able to cross new symbolic "borders."[2] Despite the disparate conclusions, however, the analysts have with few exceptions projected a new era in which "freedom of the seas" will be a concept under ever-increasing challenge.[3]

Ironically, the negotiating texts produced at UNCLOS III do not themselves bode ill for the naval powers. In the latest text, the *Revised Informal Composite Negotiating Text* (RICNT),[4] only two provisions are clearly restrictive from the perspective of the naval strategist: the 12-mile territorial sea and the recognition of a special status for waters lying between the islands of archipelagoes. Yet even before the RICNT, the 12-mile territorial sea was becoming, if it was not in fact, a custom of international law,[5] and the concept of "archipelagic waters" was also gaining support.[6]

Naval Concerns. What, then, has caused so much concern to the proponents of unrestricted mobility for naval forces? Two things: first, that a convention similar to the RICNT, if adopted, would become a source of *dispute* rather than an established order and second, that a new convention would simply be the first in a progressive series of demands by developing coastal States.[7] Whether such

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pessimism is warranted remains to be seen but the picture has probably been overdrawn. Undoubtedly there will be disputes and adjustments in the new order, just as there were prior to UNCLOS III, but predictions of frequent challenges to the movement of naval forces exaggerate the importance of international law. Developing coastal states are not likely to provoke a confrontation with one or more naval powers merely because the law of the sea permits a new range of coastal state demands. The relative importance of legal rules, particularly those that are new or open to interpretation, diminishes as the risk of confrontation increases. Nonetheless, conflicts *will* occur and international law will affect the way the conflicts are perceived by both participants and non-participants. It is important, therefore, to consider some of the areas in which coastal state claims may lead to disputes with naval powers.

International Straits. Innocent Passage. The law of the sea development that has aroused the most comment is the effect on international straits of broadening territorial seas from 3 to 12 miles. There are approximately 116 straits not currently overlapped by 3-mile territorial seas that would be spanned by 12-mile territorial seas.[8]

Obviously, straits are significant in naval planning. They frequently offer the only expeditious route to an area of political or military crisis, and even in situations of less import their use is often an important cost consideration.

As mentioned earlier, the 12-mile territorial sea was gaining currency even before UNCLOS III. Hence the problem of transit through international straits is not a product of the current law of the sea negotiations, except to the extent that those negotiations have accelerated an inevitable problem. What the negotiations have done is attempt to clarify the rights of straits' users, particularly foreign naval units, as well as the rights of straits' States. Prior to UNCLOS III, the rule of law applicable to territorial seas—including territorial seas within straits—was that of *innocent* passage, i.e., the coastal State cannot interfere with passage that poses no threat to its "peace, good order, or security."[9]

While the principle of innocent passage creates a general expectation of unimpeded transit through territorial seas, a number of facts qualify the right of innocent passage for warships. First, submarines must transit on the surface and show their flag. Second, there is no right of overflight for aircraft. Third, the coastal State decides when its "peace, good order, or security" has been threatened[10] and it can take steps to prevent passage that is not innocent.[11] Moreover, the coastal State, if it determines that its security is threatened, can temporarily suspend the right of innocent passage[12] although it cannot suspend the right of innocent passage through international straits.[13] Finally, a small but growing number of States now require notification or permission as a prerequisite for innocent passage of foreign warships.[14]

If transiting naval forces wish to avoid the restrictions inherent in innocent passage, they can do so simply by remaining outside territorial seas—a measure that usually has no effect on mission objectives. Of course, the option of avoiding territorial seas is not available where the latter enclose international straits, and absent that option the potential for conflict increases significantly.

Transit Passage. The issue of passage through international straits was tentatively compromised at UNCLOS III through the creation of the concept of *transit passage.*[15] Under this concept, submarines are not required to surface within straits and aircraft are permitted to fly over straits without first obtaining the permission of the coastal State. In addition, the RICNT specifies that the right of transit passage cannot be suspended.

Two questions become relevant at this point. First, what will govern passage through straits if UNCLOS III fails to produce a convention? And second, is the concept of transit passage adequate to prevent confrontation over the use of straits by naval forces?

If UNCLOS III does not result in a law of the sea convention, a number of States probably will assert claims that they feel are justified by the majority view reached during the Conference negotiations. For example, some States may claim a 12-mile territorial sea and a 200-mile economic zone on the basis of the tentative Conference agreement on those two issues. If such claims are in fact made, it will be because the final UNCLOS III negotiating text has more legitimacy than the law it was designed to replace, even though the former would have been created for negotiating purposes only. It is admittedly incongruous to say that a new legal rule can be justified by reference to unsuccessful negotiations, but in the situation postulated logic may have to accede to events. Should that happen, the areas of broadest agreement at UNCLOS III will become a new source of international law, at least to the extent of explaining the impetus and general acceptance of post-Conference developments.

Given, then, the possibility of unilateral claims arising from UNCLOS III that affect international straits, the naval powers can look to the same source of law to justify adherence to the rules of transit passage. The latter, after all, represents a fundamental compromise accepted by the coastal States in exchange for the recognition of important prerogatives in the area of ocean resource exploitation.[16] To be sure, the new rules give maritime states large economic zones of their own, larger than those of developing coastal States, but overall the maritime States stand to lose more economically than they gain given the technology gap and the realities of ocean use prior to UNCLOS III. Thus, if developing coastal States pursue the advantages offered by a regime modeled after the RICNT, the naval powers are entitled to recognition of their interests as well, particularly transit passage through international straits.

The second question raised by the concept of transit passage is whether the rules embodied in the RICNT are adequate to prevent confrontation over the use of straits by naval powers. The problem here is that transit passage is, by definition, transit through *territorial seas* within straits. As stated earlier, there is a growing trend among coastal States to require warships to give advance notification before entering their territorial seas. The RICNT is silent on the issue of advance notification. Presumably, some coastal States may attempt to impose a notification requirement for passage of military vessels through territorial seas within international straits. Such a requirement would clearly be objectionable to the naval powers; it would defeat the purpose of submerged passage for submarines and it could also result in the disclosure of sensitive deployment data to unfriendly forces. Perhaps more importantly, advance notification *implies* a measure of control by the coastal State, inasmuch as notification makes little sense except as a form of requesting permission, and an acceptance of the implication could lead to an attempted exercise of *actual* control by the coastal State. Despite the RICNT, then, the problem of advance notification is lurking in the background, and it threatens to become a source of disagreement whatever the outcome of UNCLOS III.

Economic Zones. In addition to the general problem of passage through straits, the new law of the sea regime could witness disputes over foreign military activities within a nation's 200-mile economic zone. Seventy-six nations, including the United States and the Soviet Union, have announced a 200-mile economic zone or a 200-mile fishing zone, and the coastal States that have not yet proclaimed a 200-mile zone will probably do so if UNCLOS III fails to produce a convention.[17]

At one time there was considerable disagreement over whether coastal States would attempt to aggrandize their limited jurisdiction in the economic zone into claims of full sovereignty. This so-called "creeping jurisdiction" is now a generally accepted proposition among writers on ocean affairs,[18] although the nature and timing of the "creep" are too uncertain to permit useful speculation. In the abstract, it is possible to describe three factors that could lead to claims of sovereignty over economic zones. First, economic advantages tend to generate protectionist demands, leading ultimately to the conclusion that the whole range of direct and indirect threats can be adequately dealt with only if the sovereign has the broadest possible discretionary power. Second, as coastal States develop their navies to provide enforcement capabilities, there may be a growing presumption that control is proof of sovereignty. And third, claims of sovereignty may be perceived as a convenient vehicle by which developing States can overcome political frustration and a sense of impotence in international affairs.

Whatever its origin, the phenomenon of creeping jurisdiction is likely to occur, although it will probably manifest itself differently in various parts of the

world. Some economic zone restrictions, because of their location, will impinge upon naval operations more then others, thereby creating the prospect of confrontation in one zone while other, more restrictive, zones are ignored by the naval powers.

Restrictions. It is unlikely that a coastal State would attempt to restrict passage *through* an economic zone. Such a radical position would create a very high risk of confrontation with little chance of support from any but the most extreme elements of the international community. By contrast, limited restrictions may offer coastal States an opportunity for political visibility without a corresponding loss of credibility. For example, any of the following naval activities could be challenged in a foreign economic zone on the basis of general principles reflected in the RICNT: weapons testing, military oceanography, intelligence collection, submarine patrols, or maneuvers designed to influence the political affairs of the coastal State.[19] The challenge could take the form of an official pronouncement directed to the government of the unwelcome vessels or a warning issued directly to the offending warships.

There are other restrictive claims that would also increase the potential for conflict at sea but, like creeping jurisdiction, the possibilities are too uncertain to permit more than a brief mention. Such claims as special military zones,[20] "closed" seas,[21] unique baselines for territorial seas,[22] and enclosure of wide bays have all been announced in the past by various coastal States,[23] and there is no reason to believe that a new law of the sea convention would either cause the old claims to be rescinded or eliminate the prospect of new ones.

In the aggregate, the potential for conflict between developing coastal States and the naval powers is significant enough that the latter should begin to develop policies for meeting challenges to their military uses of the oceans. Detailed legal analysis will have to await the actual challenges, but it is not too soon to consider some of the legal dimensions of various responses. At stake is more than unrestricted mobility for naval vessels. Equally important is the moral credibility of the naval powers involved, particularly if the threat or use of force becomes the final arbiter of a dispute.

Conflict Resolution. The numerous articles dealing with problems of naval mobility in the new ocean regime have generally attempted to deal with potential *causes* of dispute, but scant attention has been paid to the problems of dispute settlement. In this area writers have seemed content to draw obvious conclusions about the need for greater diplomacy and the importance of negotiated agreements. The difficult questions remain—the questions that arise when diplomacy and negotiations fail.

The settlement of disputes has not been ignored at UNCLOS III. A significant portion of the RICNT deals with dispute settlement, even though the drafters

could have left the problems of adjustment to such existing mechanisms as the International Court of Justice (I.C.J.) or to *ad hoc* arbitration techniques agreeable to the parties involved. One of the factors motivating Conference negotiators to address problems of dispute settlement may have been the unwillingness of nations to submit disputes to the I.C.J. for resolution. The I.C.J. hears few cases of real significance,[24] and there is no reason to believe that law of the sea problems would become an exception to that pattern. Perhaps as a consequence the RICNT contains a number of provisions designed to compel signatory nations to submit irresoluble disputes to one of the third-party settlement mechanisms enumerated in the text. Significantly, however, there are a few optional exceptions to the requirement for compulsory settlement of disputes. One such exception would permit signatory nations to withhold from compulsory settlement disputes involving military activities.[25] While that may seem to be an exception larger than the rule, it expresses an important reality of international politics: nations will not entrust their military options to third-party tribunals because of the risks, however small, of rulings adverse to their own perceptions of their national security.

One author has suggested that the United States should not support or adopt the "military activities" exception in the RICNT because, while ostensibly favorable to the naval powers, it could be used by coastal States to avoid judicial review of restrictive jurisdictional claims.[26] According to this view, compulsory settlement of disputes involving naval activities would result in recognition of the rights of the naval powers because the strongest legal position is one that follows from the literal interpretation of an international convention. While that might be true in an impartial context, it cannot be assumed that a third-party tribunal will render decisions free from the vicissitudes of international politics. The military activities of any highly developed State reflect, among other things, that State's assessment of its own security interests; it is unrealistic to expect that such interests would be delegated to a decision-making body with possible biases against powerful or affluent States.

Naval power is a highly visible and effective expression of national strength. As such, it symbolizes for some nations the inequities in world power which, in their view, are no more justifiable than the colonial empires that were built on naval supremacy. It is important to recognize, however, that whatever the advantages of naval power in bygone eras, it is still an important element in the overall balance of world forces. Any change in the availability of the oceans for military purposes would inevitably affect some navies more than others, and it would thereby alter the level of tension known as "world order." One can say, of course, that international decision-making bodies should be allowed to decide what is in the best interests of world order, but such bodies cannot contain the unpredictable imbalances that they might engender.

If naval powers choose not to submit to compulsory settlement of disputes involving military activities, they may indeed lose the opportunity to have their prerogatives recognized by an international tribunal. Consequently there may be restrictive coastal State claims that are never "adjudicated," thereby adding an element of uncertainty to the legality of any response by a naval power. Such uncertainty is a small problem, however, compared with the risks of third-party decisions affecting the military capabilities of the superpowers. And, as a practical matter, legal uncertainty always accompanies conflict, even in the face of relevant judicial decisions—distinguishing factual situations is the lawyer's forte. Thus the naval powers have little to gain, and much to lose, by submitting military activities to the compulsory settlement of disputes.

Assuming, then, that third-party settlement mechanisms will play a limited role in disputes involving naval activities, it becomes even more likely that the use of force will be the means by which competing interests are reconciled. That is not to say that the naval powers can always be expected to use their fleets in response to restrictive coastal state claims. To the contrary, the naval powers face considerable political restraints in their dealings with developing states. For a powerful nation concerned about its world image, it is not an easy decision to alter the character of a legal dispute by introducing the realities of comparative military strength. Opposing *legal* claims represent a disagreement between two independent political entities. Opposing force, on the other hand, requires one party to surrender some of its political autonomy. When a superior force is used to compel a settlement or capitulation, the dominating party risks the loss of its credibility unless it is apparent that legal considerations had to be subordinated to practical necessity. Of course, the nature of the underlying dispute is an important element in the overall assessment. It would hardly be unlawful to use measured force to advance a legal position that all nations supported. By contrast, situations that involve opposing but reasonable legal arguments, or that polarize large segments of the international community, do not permit any one party to use force solely on the strength of its legal claims. Under such circumstances force is justified, it at all, only by reference to factors that nations generally regard as capable of rendering international law irrelevant. For example, no nation would consider legal principles binding, or even applicable, if adherence to them meant sacrificing national security or independence. The same reasoning applies when immediate political considerations substantially alter the balance of costs and benefits that have given rise to the abstract legal principles governing the use of force by one nation against another. It is because of such political considerations that the judgement of the international community regarding the *legitimacy* of a nation's use of force comprehends more than generally accepted principles of *law*.

New Policies. Protests vs. Force. The problem for each naval power will be to develop policies that will enable it to respond to challenges at sea while minimizing the adverse effects on its world image. The utility of force in international relations is certainly not a new problem, but factors militating in favor of restraint have been fostered by UNCLOS III. In particular, the prestige and political recognition of developing States in the new ocean regime have become as important as the bargained-for economic rights. Any naval power cast in the role of a hegemonic reactionary with no regard for the political integrity of smaller States could lose a considerable amount of influence and respect. That risk must be weighted against the advantages of using or threatening force to preserve military or political options in any given situation.

It is problematic to describe situations in which a naval power would be justified in using force in opposition to restrictive coastal State claims. The use of force in general is prohibited by international law, except as a legitimate exercise of self-defense. Exceptions to that general prohibition can be found, but there are no categorical exceptions that would apply to claims of jurisdiction over a particular area of ocean. As to the latter, any justification for the use of force would arise from unique political and military circumstances. Hypotheses do not offer much assistance because, in order to be realistic, they must be so descriptive and esoteric as to have virtually no argumentative value. Consequently, the only useful methodology is one that recognizes that the use of force may be necessary under certain circumstances but examines the limits on such use in both legal and practical terms.

One limiting principle is that restrictive coastal State claims that do not actually interfere with naval operations should not be met by a demonstration of force solely as a means of protest. Suppose, for example, that a State were to declare that advance notice was required prior to passage of foreign warships through its economic zone. If the economic zone in question were not actually on a transit route for warships, there would be no need to detour an announced naval force through the zone to demonstrate rejection of the claim. That is not to say that naval powers should acquiesce in the claim. To the contrary, they should assert their position through diplomatic protests and public pronouncements on appropriate occasions. What should be avoided is the show of force merely for the sake of argument, and it should be avoided precisely because it would serve no useful purpose. A coastal State that decides to assert a restrictive claim is not likely to withdraw the claim simply because superior forces are ignoring it; in fact, violations of the claim might serve a coastal State objective of gaining political visibility.

Of course, *any* challenge to naval mobility would generate a certain amount of support within the naval power for forceful intervention. The arguments would be, first, that ignoring such claims might invite more like them, and second, that nonintervention might allow the claim to "ripen" into international

law. The first argument is unpersuasive because there is no reason to suppose that a demonstration of force by a naval power would deter other coastal States with ambitions similar to those of the original claimant. After all, no real loss is involved for the coastal state. As for the second argument, it is an overstatement of the general proposition that general acceptance of a unilateral claim may, overtime, legitimize that claim. International law does not require a display of force to establish a record for nonacceptance. Diplomatic protests alone can evidence a nation's legal position,[27] and for that reason official objections should be used to the maximum extent practicable in lieu of demonstrations of force.

As a corollary to the rule just stated, a naval power faced with a challenge to its use of an ocean area should consider the advantages of temporarily yielding to the challenge. If, for example, a nuclear-powered warship were denied passage through a particular strait, it might be advisable to take an alternate route or to delay passage, depending upon cost considerations and mission requirements. Such an approach would allow time for diplomatic inquiries *before* national prestige is put at stake. If no accommodation could be reached, it would certainly not be too late to route the same vessel through the strait at the next opportunity. Should a confrontation then occur, the strait user would be in a position to show that it tried to accomplish its objectives without the threat of force. Another advantage of yielding to the first challenge, if practicable, would be to eliminate the factual misunderstandings that often lead to, and occur during, incidents at sea. A diplomatic exchange would frame the legal issues involved, thereby presenting the effects of world opinion from being diluted by irresoluble factual disagreements.

Two exceptions to the rule of conflict avoidance should be added here. First, avoiding a challenge at sea is quite distinct from submitting to some form of detention or similar loss of authority. Under the latter circumstances, the law favors an *immediate* use of force as opposed to a retaliatory strike at some later time. The seizure of the *U.S.S. Pueblo* by the Democratic People's Republic of Korea in 1968 illustrates the consequences of delay—after the surrender, the prospect of retaliation by the United States quickly lost its practicality, and consequently, its legal justification.

A second exception to the rule of conflict avoidance would arise if a coastal State challenge were related to an immediate geopolitical development. At such times a temporary acceptance of the restrictive coastal State claim might have short-term effects of greater importance than the legal issues in dispute. The advantages of deferring confrontation would then become irrelevant, and the focus of international attention would then be on the attempted exploitation of law, not on legal principles.

The problem of avoiding confrontation has yet another dimension, but here the issue of political allegiance comes into play. A naval power should not undermine its credibility by showing tolerance for the restrictive claims of

friendly States simply because it enjoys a *de facto* exemption. All claims that are considered illegal should be protested through diplomatic channels regardless of source, even though the effects of a particular claim may only be felt by other, nonfriendly, naval powers. Such uniformity would emphasize the legal aspects of the problem, and it would enable the protesting naval power to avoid the charge of invoking the law only when it was advantageous to do so. Moreover, a consistent approach to coastal State claims would discourage what might otherwise become a problem of comparability—two opposing groups of coastal States making restrictive claims with the promise or expectation of support from a superpower.

Self-Defense. There remains the difficult question of actual initiation of force during an incident at sea. One of the underlying problems in this area is that the concept of self-defense has never been adequately translated into the language of seapower. To be sure, it is a well-established rule of international law that a warship cannot be attacked, seized or otherwise coerced by a foreign State.[28] And whatever else may be said about recent changes in the law of the sea, there has been no suggestion that the sovereign immunity of warships is less secure than before. But sovereign immunity has never been absolute. A State has the right to arrest a foreign warship if the latter is posing an actual and imminent threat to the arresting State's security.[29] Hence, either the general principle or the exception just stated provides at least a colorable argument for any State otherwise predisposed to defend its interests with force.

If one accepts as a starting point that it is unlawful to *initiate* the use of force at sea,[30] except in the face of imminent attack, there arise two conceptual problems. First, how should "force" be defined, e.g., would it be an exercise of force to maintain course and speed against coastal State vessels trying to block what the latter considered an unlawful passage? And second, how can a coastal State protect its interests, that force at sea is usually an interference with, not the exercise of, rights of transit? What good is the right to prevent or suspend noninnocent passage if there is no concomitant right to take action against violating warships? What if foreign military vessels simply ignore the warnings and demands of the coastal State?

International law does not provide satisfactory answers to the questions of conflict at sea during peacetime except in very general terms. Consequently, the naval powers cannot expect the strength of their legal arguments to prevent actual confrontations or to provide overwhelming support for their use of force to defend legal rights. If force becomes the arbiter of last resort, international law will provide language for debate and rhetoric but little substance for a definitive assessment of the naval power's actions. Regarding the latter, the actual necessity for force will be critical as will the reputation of the naval power in terms of its overall policies for minimizing conflicts in the new law of the sea regime.

Lieutenant Wiegley was assigned to the Naval Legal Services Office, Pearl Harbor and an International Law of Sea Scholar at the University of Hawaii at the time this article was first published.

Notes

1. Young, *New Laws for Old Navies: Military Implications of the Law of the Sea*, Survival 262 (November/December 1974).

2. Booth, *Military Implications of the Changing Law of the Sea*, in GAMBLE, LAW OF THE SEA: NEGLECTED ISSUES, PROCEEDINGS OF THE TWELFTH ANNUAL CONFERENCE ON THE LAW OF THE SEA 363 (1979).

3. See, e.g., Ashmore, *The Possible Effects on Maritime Operations of Any Future Convention of the Law of the Sea*, Naval War College Review 3 (Fall 1976); Knight, *The Law of the Sea and Naval Missions*, U.S. Nav. Inst. Proc. 32 (June 1977); O'Connell, *The Influence of Modern Operations at Sea*, U.S. Nav. Inst. Proc. 157 (May 1977).

4. *Informal Composite Negotiating Text/Revision 1*, U.N. Doc. No. A/CONF. 62/WP. 10/Rev. 1, 28 April 1979.

5. Consider the following trend:

	1969	1979
Number of independent coastal States	109	131
Three-mile territorial sea claims	36	19
Twelve-mile territorial sea claims	39	76
Between 3 and 12 miles	23	8
Claims in excess of 12 miles	7	25
Other (irregular or unspecified)	4	4

6. Draper, *The Indonesian Archipelagic State Doctrine and Law of the Sea*, The International Lawyer 143 (Winter 1977).

7. O'Connell, supra n. 3 at 158.

8. There is some disagreement on the number. One hundred sixteen (116) is the official U.S. Government figure although 121 are listed on a chart prepared by the Geographer of the State Department for a 1958 Conference entitled "World Straits Affected by a Twelve Mile Territorial Sea." The State Department also produced a pamphlet entitled "Sovereignty of the Sea" (Geographic Bulletin No. 3, Rev. October 1969) which shows 94 straits as being between 7 and 24 miles.

9. U.N. Conference on the Law of the Sea, 1st 1958, *Official Records*, U.N. Doc. No. A/CONF. 13/L52, 1958; Convention on the Territorial Sea and the Contiguous Zone, done 29 April 1958 (1964) 15 U.S.T. 1606, T.I.A.S., No. 5639, 516 U.N.T.S. 205, Article 14(4).

10. Walker, *What is Innocent Passage*, Naval War College Review 58 (January 1969).

11. Convention on the Territorial Sea and the Contiguous Zone, Article 16(1).

12. *Id.*, Article 16(3).

13. *Id.*, Article 16(4); see also Corfu Channel Case (1949) I.C.J. 28.

14. According to CIA Map 503784 (May 1978), there are 22 coastal States that require notification or permission before warships can enter their territorial seas. The United States does not honor these requirements.

15. Articles 37-44.

16. Dawson, *The North Pacific Project* at 101, Institute for Marine Studies Publication Series IMS-UW-77-1, University of Washington, Seattle, (July 1977).

17. Johnson & Gold, *The Economic Zone in the Law of the Sea: Survey, Analysis and Appraisal of Current Trends.* Occasional Paper No. 10, Law of the Sea Institute, 28 (June 1973).

18. O'Connell, supra n. 3 at 164; Booth, supra n. 3 at 345.

19. International Institute of Strategic Studies, *Strategic Survey* at 20 (London, 1976).

20. CIA Map 503783 5-78 (May 1978) depicts 34 such zones. For a discussion of one zone, see Choon-ho Park, *The 50-Mile Military Boundary Zone of North Korea*, Am. J. Int'l L. (October 1978). The United States does not recognize any of the 34 zones shown on the CIA map.

21. E.g., BUTLER, THE LAW OF SOVIET TERRITORIAL WATERS 19-27 (1967).

22. E.g., International Boundary Study, Series A, Limits in the Seas, No. 43, "Straight Baselines: People's Republic of China," Office of the Geographer, July 1972.

23. E.g., SAUNDERS, THE SOVIET NAVY 250 (1958) for a discussion of Peter the Great Bay which was declared internal waters of the Soviet government in 1957.

24. GAMBLE & FISHER, THE INTERNATIONAL COURT OF JUSTICE: AN ANALYSIS OF THE FAILURE 84 (1976).

25. Article 298.1(b).

26. Janis, *Dispute Settlement in the Law of the Sea Convention: The Military Activities Exception*, v. 4, no. 1 Ocean Devel. Int'l L. 51 (1977).

27. MacGibbon, *Some Observations on the Part of Protest in International Law*, Br. Y.B. Int'l L. 310 (1953) and Johnson, *Acquisitive Prescription in International Law*, Br. Y.B. Int'l L. 341 (1950).

28. BUTLER, THE SOVIET UNION AND THE LAW OF THE SEA 178 (1971).

29. COLOMBOS, THE INTERNATIONAL LAW OF THE SEA 314 (6th ed. 1967).

30. There are a few minor exceptions not relevant here (e.g., suppression of piracy and slave trade). See Wiegley, *The Recovered Sunken Warship: Raising a Legal Question*, U.S. Nav. Inst. Proc. 28 (January 1979).