

# United Nations Convention on the Law of the Sea: UNCLOS

A Commentary

Bearbeitet von

Prof. Dr. Alexander Proelß, Dr. Amber Rose Maggio, Eike Blitza, Oliver Daum, Prof. Richard A. Barnes, Prof. Kristin Bartenstein, Felix Beck, Prof. Vasco Becker-Weinberg, Marco Benatar, Laura Boone, Prof. Ciarán Burke, Dr. Richard Caddell, Dr. Dorothée Cambou, Dr. Hong Chang, Prof. Aldo Chircop, Prof. Detlef Czybulka, Dorota Englender, James Devaney, Erik Doorn, Dorota Jadwiga Englender, Dr. Pablo Ferrara, Prof. Erik Franckx, Prof. Douglas Guilfoyle, Prof. Shotaro Hamamoto, Dr. James Harrison, Anja Höfelmeier, Ass. Prof. Sookyeon Huh, Dr. Aline Jaeckel, Karen Janssens, Prof. Bing Bing Jia, Prof. Daniel-Erasmus Khan, Prof. Dr. Doris König, Prof. Rainer Lagoni, Dr. Gwénaëlle Gurun, Sotirios-Ioannis Lekkas, Helena Mampaey, Dr. Till Markus, Dr. Carmino Massarella, Prof. Nele Matz-Lück, Cameron Miles, Killian O'Brian, Prof. Elisa Morgera, Ass.Prof. Kentaro Nishimoto, Killian O'Brien, Daniel Owen, Ass.Prof. Irini Papanicolopulu, Dr. Lindsay Parson, Valentin Schatz, Prof. Rosemary Rayfuse, Valentin J. Schatz, Dr. Nkeiru Scotcher, Prof. Tullio Scovazzi, Prof. Andrew Serdy, Jule Siegfried, Dr. Christopher Staker, Prof. Tim Stephens, Prof. Clive R. Symmons, Prof. Stefan Talmon, Prof. Christian J. Tams, Prof. Yoshifumi Tanaka, Thuy Van Tran, Em. Prof. Tullio Treves, Dr. Kai Trümpler, Dr. Kishor Uprety, Prof. Dr. Silja Vöneky, Patrick H.P. Vrancken, Frank Wacht, Dr. Ingo Winkelmann

1. Auflage 2017. Buch. LI, 2617 S. In Leinen

ISBN 978 3 406 60324 2

Format (B x L): 16,0 x 24,0 cm

Gewicht: 2200 g

[Recht > Europarecht , Internationales Recht, Recht des Auslands > Internationales Recht > Internationales Seerecht, Luftrecht, Weltraumrecht](#)

Zu [Leseprobe](#) und [Sachverzeichnis](#)

schnell und portofrei erhältlich bei

  
DIE FACHBUCHHANDLUNG

Die Online-Fachbuchhandlung [beck-shop.de](http://beck-shop.de) ist spezialisiert auf Fachbücher, insbesondere Recht, Steuern und Wirtschaft. Im Sortiment finden Sie alle Medien (Bücher, Zeitschriften, CDs, eBooks, etc.) aller Verlage. Ergänzt wird das Programm durch Services wie Neuerscheinungsdienst oder Zusammenstellungen von Büchern zu Sonderpreisen. Der Shop führt mehr als 8 Millionen Produkte.

Proelss

United Nations Convention  
on the Law of the Sea

**beck-shop.de**  
DIE FACHBUCHHANDLUNG

# United Nations Convention on the Law of the Sea

A Commentary

edited by

Alexander Proelss

Assistant Editors:

Amber Rose Maggio

Eike Blitza

Oliver Daum

2017

*Published by*

Verlag C. H. Beck oHG, Wilhelmstraße 9, 80801 München, Germany,  
eMail: [bestellung@beck.de](mailto:bestellung@beck.de)

*Co-published by*

Hart Publishing, Kemp House, Chawley Park, Cumnor Hill, Oxford, OX2 9PH, United Kingdom,  
online at: [www.hartpub.co.uk](http://www.hartpub.co.uk)

and

Nomos Verlagsgesellschaft mbH & Co. KG Waldseestraße 3–5, 76530 Baden-Baden,  
Germany, eMail: [nomos@nomos.de](mailto:nomos@nomos.de)

Published in North America (US and Canada) by Hart Publishing,  
c/o International Specialized Book Services, 930 NE 58th Avenue, Suite 300,  
Portland, OR 97213-3786, USA, eMail: [orders@isbs.com](mailto:orders@isbs.com)

Recommended citation:

*[Author's name], Article [#], mn [#]' in: Proelss, UNCLOS, 1st edition 2017*

ISBN 978 3 406 60324 2 (C.H. BECK)  
ISBN 978 1 84946 192 4 (HART)  
ISBN 978 3 8329 7275 2 (NOMOS)

© 2017 Verlag C. H. Beck oHG  
Wilhelmstr. 9, 80801 München  
Printed in Germany by  
Druckerei C. H. Beck Nördlingen  
(Address corresponding to publisher)  
Typeset by  
Reemers Publishing Services GmbH, Krefeld  
Cover: Druckerei C. H. Beck Nördlingen

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Verlag C. H. Beck, or as expressly permitted by law under the terms agreed with the appropriate reprographic rights organisation.

Enquiries concerning reproduction which may not be covered by the above should be addressed to  
C. H. Beck at the address above.

## Foreword

The edition of this new Commentary on the United Nations Convention on the Law of the Sea is as timely as it will be welcome to both academics and practitioners working in the fields of the law of the sea and oceans governance. After more than 35 years since the adoption of the Convention, there is an urgent need for an updated evaluation of its provisions and of the practice that has emerged regarding its implementation.

The conclusion of the 1982 United Nations Convention on the Law of the Sea was a milestone achievement on the part of the international community of States. Their negotiations at the Third United Nations Conference on the Law of the Sea resulted in a regime for the governance of the oceans which was unprecedented in its scope and comprehensiveness. Quite rightly, the Convention is therefore being called a 'Constitution for the oceans'. Nevertheless, the Convention cannot and has never been intended to provide an answer to every issue arising in connection with the use of the oceans and their governance. In effect, it is a framework treaty which has proved to be a flexible instrument serving as a solid foundation for the further progressive development of a legal regime for the oceans.

The Convention is a 'living' instrument and is subject to an ongoing process of change and adaptation to new challenges. Such development is being achieved through negotiation of new instruments supplementing the regime established by the Convention as well as through interpretive implementation of the Convention. This has been demonstrated by the conclusion of two highly important implementing agreements, namely the 1994 Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1992 and the 1995 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. This process may well continue in the future, as evidenced by resolution 69/292 adopted by the General Assembly of the United Nations on 19 June 2015 and concerning the development of 'an internationally legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction'.

Progressive development of the legal regime established by the Convention is, however, not limited to the adoption of new legal instruments. It is also accomplished through interpretive implementation of the Convention. Such development may take the form of State practice developing a uniform approach to the implementation of specific provisions of the Convention acquiring general recognition. It may also be fostered by the practice of international institutions competent to administer parts of the Convention's regime and by the jurisprudence of international courts and tribunals entrusted under the Convention to settle disputes concerning its interpretation or implementation.

Over the years, the three institutions established by the Convention, namely the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf, through their activities and, in the case of the International Tribunal for the Law of the Sea, through its jurisprudence, have made a substantial contribution, within the areas of their competence, to the progressive development of the international regime established by the Convention. The role of international judicial bodies is of particular relevance with regard to the many provisions of the Convention which are the result of compromises found during negotiation and which, as a consequence, leave room for ambiguities and differences of understanding. Those provisions in particular require evolutionary interpretation and this role is performed, on many occasions, by international courts and tribunals when adjudicating individual contentious cases or when rendering advisory opinions.

## Foreword

The wealth of developments which have occurred since the entry into force of the Convention and which have shaped the practice relating to its implementation require careful and in-depth analysis and evaluation. This is the task and challenge on which the new Commentary is focusing. It will thereby complement the already existing Commentary edited by the Center for Oceans Law and Policy of the University of Virginia. Both works will be relevant for academics and practitioners alike. The Virginia Commentary, with its focus on the legislative history of the Convention, will continue to provide insights into the development of the Convention's provisions while the new Commentary puts an emphasis on analysing each provision of the Convention and its Annexes, element by element. It will give particular consideration to the practice regarding the implementation of the Convention as developed by States and international organizations as well as to the jurisprudence of international courts and tribunals.

Thus, the new Commentary will serve all those who are called upon to contribute to the implementation and interpretation of the Convention and to ensure proper compliance with its provisions. It will also offer valuable information to those involved in ongoing or future negotiations on new instruments supplementing the Convention.

The preparation of the new Commentary is also welcomed because we need to ensure proper compliance with the provisions of the Convention in the light of new developments which, on the one hand, enhance our ability to use ocean resources but, on the other, require particular attention to be paid to the preservation and protection of the marine environment.

Let me therefore express my appreciation to the editors and contributors as well as to the publisher for their efforts in preparing and publishing this Commentary, which will establish itself as one of the standard works on the international law of the sea.

November 2016

Judge Vladimir Golitsyn  
President of the International Tribunal for the Law of the Sea

## Preface

When I first discussed the idea of launching a new commentary on the 1982 United Nations Convention on the Law of the Sea (UNCLOS) with participants of the Fourth J.H.W. Verzijl Memorial Symposium that took place at Utrecht University in November 2008, I had a general idea of the challenges that would come along with the process of editing such a volume, but certainly did not expect the project to take almost ten years. The reasons why it took such a long time for the book to finally become a reality are manifold. It is per se not a simple task to coordinate a scientific book project involving more than 60 authors from many different regions in the world. More importantly, the establishment of national research councils and the like, which require scientists and researchers to give account of their past activities on an annual basis, delays, or even endangers, every research project that, as is the case with Commentaries such as the present one, does not fall within the categories identified by these institutions as representing ‘proper’ research. It seems to me that the stereotyped approach on which these schemes are based ultimately results in compromising freedom of science rather than creating incentives for innovative research.

Notwithstanding these challenges, it is my sincere wish to use this opportunity to stress that it has been a privilege and pleasure to work together with such a distinguished group of legal practitioners, scholars and researchers in the context of the present book project. I am also indebted to the publishing houses C.H. Beck, Hart and Nomos, and in particular to Dr. *Wilhelm Warth*. As responsible person for the commentary series, Dr. *Warth* has been my main point of contact at C.H. Beck over all these years. He encouraged me to keep going with the project at times when I doubted that it would ever become a reality, and granted me all flexibility and support that an editor needs when conducting a research project of this magnitude. Together with *Thomas Klich*, he also kindly offered to compile the table of cases, the list of abbreviations and the index. Furthermore, I would like to cordially thank the German Research Foundation (Deutsche Forschungsgemeinschaft – DFG) for generously supporting the book project by way of a research grant. Last but not least, I owe a great debt of gratitude to my assistant editors. *Amber Maggio*, *Eike Blitza* and *Oliver Daum* (in order of degree of involvement) were, amongst many other issues, in charge of developing, adapting and applying the editorial guidelines, of communicating with the authors, but also of assisting me in safeguarding the scientific quality of the individual contributions to this Commentary. Without their input, perseverance and commitment, which went far beyond what can generally be expected from research associates that are additionally engaged in writing their PhD theses, this book would have not come into existence. They were supported at different stages of the project by a number of student researchers, namely *Felix Bode*, *Sara Cordes*, *Hannah Jentgens*, *Lara-Christin Meinert*, *Anika Natus* and *Martin Weiler*. *Killian O’Brien*, former research associate at the Walther-Schücking Institute for International Law at Kiel University, also deserves special mention for his assistance and input in the initial phase of the project prior to my move to Trier University.

The chapters written by the following authors solely reflect their private opinions and not the positions of the institutions for which they work: *Dorota Englender*, *Gwenaelle Le Gurun*, *Doris König*, *Killian O’Brien*, *Daniel Owen*, *Kai Trümpler*, *Kishor Uprety* and *Ingo Winkelmann*.

The UNCLOS, which has convincingly been labelled the ‘constitution for the oceans’ (*Tommy T.B. Koh*), is the most comprehensive and certainly one of the most important and influential international treaties ever concluded. One of the central aims of this Commentary is to show that its terms offer much more than one would initially expect, and that it thus constitutes a living instrument (without denying the need to further develop the requirements codified therein) capable of addressing challenges that were not anticipated at the time



## **Preface**

of its negotiation and adoption. I sincerely hope that this book will prove to be a useful tool for both researchers and practitioners in accessing the Convention, understanding the meaning of its provisions, and applying it in a lawful manner in practice.

Trier, November 2016

*Alexander Proelss*

## Contents

Foreword .....	V
Preface .....	VII
Authors .....	XIX
Abbreviations .....	XXIII
Cases .....	XXXI
Essential Treaties .....	LI

### PART I INTRODUCTION

Article 1. Use of terms and scope .....	17
---	----

### PART II TERRITORIAL SEA AND CONTIGUOUS ZONE

#### Section 1. General provisions

Article 2. Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil .....	27
--	----

#### Section 2. Limits of the territorial sea

Article 3. Breadth of the territorial sea .....	34
Article 4. Outer limit of the territorial sea .....	41
Article 5. Normal baseline .....	45
Article 6. Reefs .....	60
Article 7. Straight baselines .....	65
Article 8. Internal waters .....	84
Article 9. Mouths of rivers .....	96
Article 10. Bays .....	105
Article 11. Ports .....	119
Article 12. Roadsteads .....	128
Article 13. Low-tide elevations .....	131
Article 14. Combination of methods for determining baselines .....	147
Article 15. Delimitation of the territorial sea between States with opposite or adjacent coasts .....	149
Article 16. Charts and lists of geographical coordinates .....	167

#### Section 3. Innocent passage in the territorial sea

Article 17. Right of innocent passage .....	176
Article 18. Meaning of passage .....	181
Article 19. Meaning of innocent passage .....	186
Article 20. Submarines and other underwater vehicles .....	196
Article 21. Laws and regulations of the coastal State relating to innocent passage .....	199
Article 22. Sea lanes and traffic separation schemes in the territorial sea .....	208
Article 23. Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances .....	213
Article 24. Duties of the coastal State .....	217
Article 25. Rights of protection of the coastal State .....	222
Article 26. Charges which may be levied on foreign ships .....	226
Article 27. Criminal jurisdiction on board a foreign ship .....	229
Article 28. Civil jurisdiction in relation to foreign ships .....	237
Article 29. Definition of warships .....	241
Article 30. Non-compliance by warships with the laws and regulations of the coastal State .....	244
Article 31. Responsibility of the flag State for damage caused by a warship or other government ship operated for non-commercial purposes .....	248
Article 32. Immunities of warships and other government ships operated for non-commercial purposes ...	250

#### Section 4. Contiguous zone

Article 33. Contiguous zone .....	254
-----------------------------------	-----

## Contents

<b>PART III</b>	
<b>STRAITS USED FOR INTERNATIONAL NAVIGATION</b>	
<b>Section 1. General provisions</b>	
Article 34. Legal status of waters forming straits used for international navigation .....	272
Article 35. Scope of this Part .....	276
Article 36. High seas routes or routes through exclusive economic zones through straits used for international navigation .....	284
<b>Section 2. Transit passage</b>	
Article 37. Scope of this section .....	287
Article 38. Right of transit passage .....	293
Article 39. Duties of ships and aircraft during transit passage .....	300
Article 40. Research and survey activities .....	305
Article 41. Sea lanes and traffic separation schemes in straits used for international navigation .....	307
Article 42. Laws and regulations of States bordering straits relating to transit passage .....	313
Article 43. Navigational and safety aids and other improvements and the prevention, reduction and control of pollution .....	320
Article 44. Duties of States bordering straits .....	324
<b>Section 3. Innocent passage</b>	
Article 45. Innocent passage .....	327
<b>PART IV</b>	
<b>ARCHIPELAGIC STATES</b>	
Article 46. Use of terms .....	334
Article 47. Archipelagic baselines .....	352
Article 48. Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf .....	374
Article 49. Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil .....	376
Article 50. Delimitation of internal waters .....	379
Article 51. Existing agreements, traditional fishing rights and existing submarine cables .....	382
Article 52. Right of innocent passage .....	389
Article 53. Right of archipelagic sea lanes passage .....	393
Article 54. Duties of ships and aircraft during their passage, research and survey activities, duties of the archipelagic State and laws and regulations of the archipelagic State relating to archipelagic sea lanes passage .....	404
<b>PART V</b>	
<b>EXCLUSIVE ECONOMIC ZONE</b>	
Article 55. Specific legal regime of the exclusive economic zone .....	408
Article 56. Rights, jurisdiction and duties of the coastal State in the exclusive economic zone .....	418
Article 57. Breadth of the exclusive economic zone .....	437
Article 58. Rights and duties of other States in the exclusive economic zone .....	444
Article 59. Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone .....	458
Article 60. Artificial islands, installations and structures in the exclusive economic zone .....	464
Article 61. Conservation of the living resources .....	480
Article 62. Utilization of the living resources .....	493
Article 63. Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it .....	506
Article 64. Highly migratory species .....	513
Article 65. Marine mammals .....	519
Article 66. Anadromous stocks .....	527
Article 67. Catadromous species .....	536
Article 68. Sedentary species .....	540
Article 69. Right of land-locked States .....	543
Article 70. Right of geographically disadvantaged States .....	548
Article 71. Non-applicability of articles 69 and 70 .....	552
Article 72. Restrictions on transfer of rights .....	554
Article 73. Enforcement of laws and regulations of the coastal State .....	556
Article 74. Delimitation of the exclusive economic zone between States with opposite or adjacent coasts ..	563
Article 75. Charts and lists of geographical coordinates .....	583

## Contents

<b>PART VI</b>	
<b>CONTINENTAL SHELF</b>	
Article 76. Definition of the continental shelf .....	587
Annex II to the Final Act. Statement of understanding concerning a specific method to be used in establishing the outer edge of the continental margin .....	600
Article 77. Rights of the coastal State over the continental shelf .....	604
Article 78. Legal status of the superjacent waters and air space and the rights and freedoms of other States .....	614
Article 79. Submarine cables and pipelines on the continental shelf .....	618
Article 80. Artificial islands, installations and structures on the continental shelf .....	628
Article 81. Drilling on the Continental Shelf .....	634
Article 82. Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles .....	639
Article 83. Delimitation of the continental shelf between States with opposite or adjacent coasts .....	651
Article 84. Charts and lists of geographical coordinates .....	666
Article 85. Tunnelling .....	670
<b>PART VII</b>	
<b>HIGH SEAS</b>	
<b>Section 1. General provisions</b>	
Article 86. Application of the provisions of this Part .....	675
Article 87. Freedom of the high seas .....	678
Article 88. Reservation of the high seas for peaceful purposes .....	682
Article 89. Invalidity of claims of sovereignty over the high seas .....	687
Article 90. Right of navigation .....	690
Article 91. Nationality of Ships .....	692
Article 92. Status of ships .....	700
Article 93. Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency .....	704
Article 94. Duties of the flag State .....	707
Article 95. Immunity of warships on the high seas .....	714
Article 96. Immunity of ships used only on government non-commercial service .....	716
Article 97. Penal jurisdiction in matters of collision or any other incident of navigation .....	721
Article 98. Duty to render assistance .....	725
Article 99. Prohibition of the transport of slaves .....	730
Article 100. Duty to cooperate in the repression of piracy .....	733
Article 101. Definition of piracy .....	737
Article 102. Piracy by a warship, government ship or government aircraft whose crew has mutinied .....	744
Article 103. Definition of a pirate ship or aircraft .....	746
Article 104. Retention or loss of the nationality of a pirate ship or aircraft .....	747
Article 105. Seizure of a pirate ship or aircraft .....	749
Article 106. Liability for seizure without adequate grounds .....	753
Article 107. Ships and aircraft which are entitled to seize on account of piracy .....	755
Article 108. Illicit traffic in narcotic drugs or psychotropic substances .....	759
Article 109. Unauthorized broadcasting from the high seas .....	763
Article 110. Right of visit .....	767
Article 111. Right of hot pursuit .....	772
Article 112. Right to lay submarine cables and pipelines .....	779
Article 113. Breaking or injury of a submarine cable or pipeline .....	782
Article 114. Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline .....	785
Article 115. Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline .....	788
<b>Section 2. Conservation and management of the living resources of the high seas</b>	
Article 116. Right to fish on the high seas .....	791
Article 117. Duty of States to adopt with respect to their nationals measures for the conservation of the living resources of the high seas .....	803
Article 118. Cooperation of States in the conservation and management of living resources .....	817
Article 119. Conservation of the living resources of the high seas .....	830
Article 120. Marine mammals .....	850
<b>PART VIII</b>	
<b>REGIME OF ISLANDS</b>	
Article 121. Regime of islands .....	858

## Contents

<b>PART IX</b>	
<b>ENCLOSED OR SEMI-ENCLOSED SEAS</b>	
Article 122. Definition .....	881
Article 123. Cooperation of States bordering enclosed or semi-enclosed seas .....	886
<b>PART X</b>	
<b>RIGHT OF ACCESS OF LAND-LOCKED STATES TO AND FROM THE SEA AND FREEDOM OF TRANSIT</b>	
Article 124. Use of Terms .....	893
Article 125. Right of access to and from the sea and freedom of transit .....	898
Article 126. Exclusion of application of the most-favoured-nation clause .....	911
Article 127. Customs duties, taxes and other charges .....	916
Article 128. Free zones and other customs facilities .....	920
Article 129. Cooperation in the construction and improvement of means of transport .....	924
Article 130. Measures to avoid or eliminate delays or other difficulties of a technical nature in traffic in transit .....	927
Article 131. Equal treatment in maritime ports .....	929
Article 132. Grant of greater transit facilities .....	933
<b>PART XI</b>	
<b>THE AREA</b>	
<b>Section 1. General provisions</b>	
Article 133. Use of terms .....	936
Article 134. Scope of this Part .....	943
Article 135. Legal status of the superjacent waters and air space .....	946
<b>Section 2. Principles governing the Area</b>	
Article 136. Common heritage of mankind .....	949
Article 137. Legal status of the Area and its resources .....	957
Article 138. General conduct of States in relation to the Area .....	964
Article 139. Responsibility to ensure compliance and liability for damage .....	968
Article 140. Benefit of mankind .....	976
Article 141. Use of the Area exclusively for peaceful purposes .....	982
Article 142. Rights and legitimate interests of coastal States .....	986
Article 143. Marine scientific research .....	989
Article 144. Transfer of technology .....	1002
Article 145. Protection of the marine environment .....	1007
Article 146. Protection of human life .....	1028
Article 147. Accommodation of activities in the Area and in the marine environment .....	1035
Article 148. Participation of developing States in activities in the Area .....	1046
Article 149. Archaeological and historical objects .....	1052
<b>Section 3. Development of resources of the Area</b>	
Article 150. Policies relating to activities in the Area .....	1058
Article 151. Production policies .....	1066
Article 152. Exercise of powers and functions by the Authority .....	1074
Article 153. System of exploration and exploitation .....	1080
Article 154. Periodic Review .....	1089
Article 155. The Review Conference .....	1092
<b>Section 4. The Authority</b>	
Article 156. Establishment of the Authority .....	1097
Article 157. Nature and fundamental principles of the Authority .....	1107
Article 158. Organs of the Authority .....	1115
Article 159. Composition, procedure and voting .....	1122
Article 160. Powers and functions .....	1132
Article 161. Composition, procedure and voting .....	1148
Article 162. Powers and functions .....	1157
Article 163. Organs of the Council .....	1169
Article 164. The Economic Planning Commission .....	1174
Article 165. The Legal and Technical Commission .....	1178
Article 166. The Secretariat .....	1187
Article 167. The staff of the Authority .....	1191
Article 168. International character of the Secretariat .....	1198
Article 169. Consultation and cooperation with international and non-governmental organizations .....	1205

## Contents

Article 170. The Enterprise .....	1210
Article 171. Funds of the Authority .....	1216
Article 172. Annual budget of the Authority .....	1220
Article 173. Expenses of the Authority .....	1222
Article 174. Borrowing power of the Authority .....	1224
Article 175. Annual audit .....	1226
Article 176. Legal status .....	1228
Article 177. Privileges and immunities .....	1232
Article 178. Immunity from legal process .....	1236
Article 179. Immunity from search and any form of seizure .....	1238
Article 180. Exemption from restrictions, regulations, controls and moratoria .....	1240
Article 181. Archives and official communications of the Authority .....	1241
Article 182. Privileges and immunities of certain persons connected with the Authority .....	1244
Article 183. Exemption from taxes and customs duties .....	1246
Article 184. Suspension of the exercise of voting rights .....	1248
Article 185. Suspension of exercise of rights and privileges of membership .....	1249
<b>Section 5. Settlement of disputes and advisory opinions</b>	
Article 186. Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea .....	1250
Article 187. Jurisdiction of the Seabed Disputes Chamber .....	1254
Article 188. Submission of disputes to a special chamber of the International Tribunal for the Law of the Sea or an ad hoc chamber of the Seabed Disputes Chamber or to binding commercial arbitration .....	1261
Article 189. Limitation on jurisdiction with regard to decisions of the Authority .....	1266
Article 190. Participation and appearance of sponsoring States Parties in proceedings .....	1271
Article 191. Advisory opinions .....	1274
<b>PART XII</b>	
<b>PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT</b>	
<b>Section 1. General provisions</b>	
Article 192. General obligation .....	1277
Article 193. Sovereign right of States to exploit their natural resources .....	1287
Article 194. Measures to prevent, reduce and control pollution of the marine environment .....	1295
Article 195. Duty not to transfer damage or hazards or transform one type of pollution into another .....	1315
Article 196. Use of technologies or introduction of alien or new species .....	1319
<b>Section 2. Global and regional cooperation</b>	
Article 197. Cooperation on a global or regional basis .....	1328
Article 198. Notification of imminent or actual damage .....	1333
Article 199. Contingency plans against pollution .....	1338
Article 200. Studies, research programmes and exchange of information and data .....	1341
Article 201. Scientific criteria for regulations .....	1344
<b>Section 3. Technical assistance</b>	
Article 202. Scientific and technical assistance to developing States .....	1346
Article 203. Preferential treatment for developing States .....	1352
<b>Section 4. Monitoring and environmental assessment</b>	
Article 204. Monitoring of the risks or effects of pollution .....	1356
Article 205. Publication of reports .....	1364
Article 206. Assessment of potential effects of activities .....	1369
<b>Section 5. International rules and national legislation to prevent, reduce and control pollution of the marine environment</b>	
Article 207. Pollution from land-based sources .....	1378
Article 208. Pollution from seabed activities subject to national jurisdiction .....	1391
Article 209. Pollution from activities in the Area .....	1400
Article 210. Pollution by dumping .....	1407
Article 211. Pollution from vessels .....	1419
Article 212. Pollution from or through the atmosphere .....	1443
<b>Section 6. Enforcement</b>	
Article 213. Enforcement with respect to pollution from land-based sources .....	1451
Article 214. Enforcement with respect to pollution from seabed activities .....	1458
Article 215. Enforcement with respect to pollution from activities in the Area .....	1463

## Contents

Article 216. Enforcement with respect to pollution by dumping .....	1467
Article 217. Enforcement by flag States .....	1474
Article 218. Enforcement by port States .....	1487
Article 219. Measures relating to seaworthiness of vessels to avoid pollution .....	1496
Article 220. Enforcement by coastal States .....	1505
Article 221. Measures to avoid pollution arising from maritime casualties .....	1512
Article 222. Enforcement with respect to pollution from or through the atmosphere .....	1521
<b>Section 7. Safeguards</b>	
Article 223. Measures to facilitate proceedings .....	1527
Article 224. Exercise of powers of enforcement .....	1531
Article 225. Duty to avoid adverse consequences in the exercise of the powers of enforcement .....	1534
Article 226. Investigation of foreign vessels .....	1537
Article 227. Non-discrimination with respect to foreign vessels .....	1544
Article 228. Suspension and restrictions on institution of proceedings .....	1547
Article 229. Institution of civil proceedings .....	1552
Article 230. Monetary penalties and the observance of recognized rights of the accused .....	1554
Article 231. Notification to the flag State and other States concerned .....	1557
Article 232. Liability of States arising from enforcement measures .....	1561
Article 233. Safeguards with respect to straits used for international navigation .....	1563
<b>Section 8. Ice-covered areas</b>	
Article 234. Ice-covered areas .....	1566
<b>Section 9. Responsibility and liability</b>	
Article 235. Responsibility and liability .....	1585
<b>Section 10. Sovereign immunity</b>	
Article 236. Sovereign immunity .....	1591
<b>Section 11. Obligations under other conventions on the protection and preservation of the marine environment</b>	
Article 237. Obligations under other conventions on the protection and preservation of the marine environment .....	1596
<b>PART XIII</b>	
<b>MARINE SCIENTIFIC RESEARCH</b>	
<b>Section 1. General provisions</b>	
Article 238. Right to conduct marine scientific research .....	1605
Article 239. Promotion of marine scientific research .....	1614
Article 240. General principles for the conduct of marine scientific research .....	1617
Article 241. Non-recognition of marine scientific research activities as the legal basis for claims .....	1624
<b>Section 2. International cooperation</b>	
Article 242. Promotion of international cooperation .....	1630
Article 243. Creation of favourable conditions .....	1636
Article 244. Publication and dissemination of information and knowledge .....	1639
<b>Section 3. Conduct and promotion of marine scientific research</b>	
Article 245. Marine scientific research in the territorial sea .....	1643
Article 246. Marine scientific research in the exclusive economic zone and on the continental shelf .....	1649
Article 247. Marine scientific research projects undertaken by or under the auspices of international organizations .....	1664
Article 248. Duty to provide information to the coastal State .....	1673
Article 249. Duty to comply with certain conditions .....	1679
Article 250. Communications concerning marine scientific research projects .....	1690
Article 251. General criteria and guidelines .....	1693
Article 252. Implied consent .....	1696
Article 253. Suspension or cessation of marine scientific research activities .....	1700
Article 254. Rights of neighbouring land-locked and geographically disadvantaged States .....	1707
Article 255. Measures to facilitate marine scientific research and assist research vessels .....	1713
Article 256. Marine scientific research in the Area .....	1717
Article 257. Marine scientific research in the water column beyond the exclusive economic zone .....	1725

## Contents

<b>Section 4. Scientific research installations or equipment in the marine environment</b>	
Article 258. Deployment and use .....	1731
Article 259. Legal status .....	1738
Article 260. Safety zones .....	1740
Article 261. Non-interference with shipping routes .....	1744
Article 262. Identification markings and warning signals .....	1746
<b>Section 5. Responsibility and liability</b>	
Article 263. Responsibility and liability .....	1749
<b>Section 6. Settlement of disputes and interim measures</b>	
Article 264. Settlement of disputes .....	1757
Article 265. Interim measures .....	1761
<b>PART XIV</b>	
<b>DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY</b>	
<b>Section 1. General provisions</b>	
Article 266. Promotion of the development and transfer of marine technology .....	1764
Article 267. Protection of legitimate interests .....	1774
Article 268. Basic objectives .....	1778
Article 269. Measures to achieve the basic objectives .....	1783
<b>Section 2. International cooperation</b>	
Article 270. Ways and means of international cooperation .....	1788
Article 271. Guidelines, criteria and standards .....	1791
Article 272. Coordination of international programmes .....	1793
Article 273. Cooperation with international organizations and the Authority .....	1796
Article 274. Objectives of the Authority .....	1797
<b>Section 3. National and regional marine scientific and technological centres</b>	
Article 275. Establishment of national centres .....	1801
Article 276. Establishment of regional centres .....	1803
Article 277. Functions of regional centres .....	1806
<b>Section 4. Cooperation among international organizations</b>	
Article 278. Cooperation among international organizations .....	1807
<b>PART XV</b>	
<b>SETTLEMENT OF DISPUTES</b>	
<b>Section 1. General provisions</b>	
Article 279. Obligation to settle disputes by peaceful means .....	1813
Article 280. Settlement of disputes by any peaceful means chosen by the parties .....	1817
Article 281. Procedure where no settlement has been reached by the parties .....	1820
Article 282. Obligations under general, regional or bilateral agreements .....	1825
Article 283. Obligation to exchange views .....	1830
Article 284. Conciliation .....	1838
Article 285. Application of this section to disputes submitted pursuant to Part XI .....	1841
<b>Section 2. Compulsory procedures entailing binding decisions</b>	
Article 286. Application of procedures under this section .....	1844
Article 287. Choice of procedure .....	1849
Article 288. Jurisdiction .....	1857
Article 289. Experts .....	1863
Article 290. Provisional measures .....	1866
Article 291. Access .....	1878
Article 292. Prompt release of vessels and crews .....	1881
Article 293. Applicable law .....	1893
Article 294. Preliminary proceedings .....	1896
Article 295. Exhaustion of local remedies .....	1900
Article 296. Finality and binding force of decisions .....	1904



## Contents

<b>Section 3. Limitations and exceptions to applicability of section 2</b>	
Article 297. Limitations on applicability of section 2 .....	1907
Article 298. Optional exceptions to applicability of section 2 .....	1919
Article 299. Right of the parties to agree upon a procedure .....	1933
<b>PART XVI</b>	
<b>GENERAL PROVISIONS</b>	
Article 300. Good faith and abuse of rights .....	1937
Article 301. Peaceful uses of the seas .....	1943
Article 302. Disclosure of information .....	1947
Article 303. Archaeological and historical objects found at sea .....	1950
Article 304. Responsibility and liability for damage .....	1961
<b>PART XVII</b>	
<b>FINAL PROVISIONS</b>	
Article 305. Signature .....	1968
Article 306. Ratification and formal confirmation .....	1979
Article 307. Accession .....	1983
Article 308. Entry into force .....	1985
Article 309. Reservations and exceptions .....	1992
Article 310. Declarations and Statements .....	2001
Article 311. Relation to other conventions and international agreements .....	2009
Article 312. Amendment .....	2019
Article 313. Amendment by simplified procedure .....	2023
Article 314. Amendments to the provisions of this Convention relating exclusively to activities in the Area .....	2025
Article 315. Signature, ratification of, accession to and authentic texts of amendments .....	2028
Article 316. Entry into force of amendments .....	2030
Article 317. Denunciation .....	2033
Article 318. Status of Annexes .....	2037
Article 319. Depositary .....	2039
Article 320. Authentic texts .....	2044
<b>ANNEX I</b>	
<b>HIGHLY MIGRATORY SPECIES</b> .....	
	2049
<b>ANNEX II</b>	
<b>COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF</b>	
Article 1. ....	2067
Article 2. ....	2069
Article 3. ....	2076
Article 4. ....	2081
Article 5. ....	2087
Article 6. ....	2093
Article 7. ....	2098
Article 8. ....	2100
Article 9. ....	2104
<b>ANNEX III</b>	
<b>BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION</b>	
Article 1. Title to minerals .....	2113
Article 2. Prospecting .....	2117
Article 3. Exploration and exploitation .....	2126
Article 4. Qualifications of applicants .....	2135
Article 5. Transfer of technology .....	2147
Article 6. Approval of plans of work .....	2154
Article 7. Selection among applicants for production authorizations .....	2161
Article 8. Reservation of areas .....	2166
Article 9. Activities in reserved areas .....	2177
Article 10. Preference and priority among applicants .....	2189
Article 11. Joint arrangements .....	2193
Article 12. Activities carried out by the Enterprise .....	2195
Article 13. Financial terms of contracts .....	2199
Article 14. Transfer of data .....	2209
Article 15. Training programmes .....	2216
Article 16. Exclusive right to explore and exploit .....	2224
Article 17. Rules, regulations and procedures of the Authority .....	2236

## Contents

Article 18. Penalties .....	2250
Article 19. Revision of contract .....	2257
Article 20. Transfer of rights and obligations .....	2261
Article 21. Applicable law .....	2263
Article 22. Responsibility .....	2268

### ANNEX IV STATUTE OF THE ENTERPRISE

Article 1. Purposes .....	2275
Article 2. Relationship to the Authority .....	2278
Article 3. Limitation of liability .....	2282
Article 4. Structure .....	2284
Article 5. Governing Board .....	2285
Article 6. Powers and functions of the Governing Board .....	2288
Article 7. Director-General and staff of the Enterprise .....	2293
Article 8. Location .....	2296
Article 9. Reports and financial statements .....	2297
Article 10. Allocation of net income .....	2298
Article 11. Finances .....	2300
Article 12. Operations .....	2304
Article 13. Legal status, privileges and immunities .....	2307

### ANNEX V CONCILIATION

#### Section 1. Conciliation procedure pursuant to Section 1 of Part XV

Article 1. Institution of proceedings .....	2311
Article 2. List of conciliators .....	2312
Article 3. Constitution of conciliation commission .....	2314
Article 4. Procedure .....	2318
Article 5. Amicable settlement .....	2320
Article 6. Functions of the commission .....	2321
Article 7. Report .....	2322
Article 8. Termination .....	2325
Article 9. Fees and expenses .....	2326
Article 10. Right of parties to modify procedure .....	2327

#### Section 2. Compulsory submission to conciliation procedure pursuant to section 3 of Part XV

Article 11. Institution of proceedings .....	2328
Article 12. Failure to reply or to submit to conciliation .....	2330
Article 13. Competence .....	2331
Article 14. Application of section 1 .....	2332

### ANNEX VI STATUTE OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Article 1. General provisions .....	2334
-------------------------------------	------

#### Section 1. Organization of the tribunal

Article 2. Composition .....	2337
Article 3. Membership .....	2339
Article 4. Nominations and elections .....	2341
Article 5. Term of office .....	2342
Article 6. Vacancies .....	2345
Article 7. Incompatible activities .....	2346
Article 8. Conditions relating to participation of members in a particular case .....	2347
Article 9. Consequence of ceasing to fulfil required conditions .....	2349
Article 10. Privileges and immunities .....	2350
Article 11. Solemn declaration by members .....	2352
Article 12. President, Vice-President and Registrar .....	2353
Article 13. Quorum .....	2355
Article 14. Seabed Disputes Chamber .....	2357
Article 15. Special chambers .....	2358
Article 16. Rules of the Tribunal .....	2362
Article 17. Nationality of members .....	2363
Article 18. Remuneration of members .....	2366
Article 19. Expenses of the Tribunal .....	2369

## Contents

<b>Section 2. Competence</b>	
Article 20. Access to the Tribunal .....	2370
Article 21. Jurisdiction .....	2374
Article 22. Reference of disputes subject to other agreements .....	2383
Article 23. Applicable law .....	2384
<b>Section 3. Procedure</b>	
Article 24. Institution of proceedings .....	2387
Article 25. Provisional measures .....	2395
Article 26. Hearing .....	2400
Article 27. Conduct of case .....	2406
Article 28. Default .....	2412
Article 29. Majority for decision .....	2422
Article 30. Judgment .....	2425
Article 31. Request to intervene .....	2430
Article 32. Right to intervene in cases of interpretation or application .....	2435
Article 33. Finality and binding force of decisions .....	2439
Article 34. Costs .....	2451
<b>Section 4. Seabed disputes chamber</b>	
Article 35. Composition .....	2453
Article 36. Ad hoc chambers .....	2455
Article 37. Access .....	2457
Article 38. Applicable law .....	2458
Article 39. Enforcement of decisions of the Chamber .....	2459
Article 40. Applicability of other sections of this Annex .....	2461
<b>Section 5. Amendments</b>	
Article 41. Amendments .....	2463
<b>ANNEX VII ARBITRATION</b>	
Article 1. Institution of proceedings .....	2465
Article 2. List of arbitrators .....	2467
Article 3. Constitution of arbitral tribunal .....	2470
Article 4. Functions of arbitral tribunal .....	2474
Article 5. Procedure .....	2475
Article 6. Duties of parties to a dispute .....	2477
Article 7. Expenses .....	2479
Article 8. Required majority for decisions .....	2480
Article 9. Default of appearance .....	2482
Article 10. Award .....	2483
Article 11. Finality of award .....	2486
Article 12. Interpretation or implementation of award .....	2487
Article 13. Application to entities other than States Parties .....	2489
<b>ANNEX VIII SPECIAL ARBITRATION</b>	
Article 1. Institution of proceedings .....	2491
Article 2. Lists of experts .....	2498
Article 3. Constitution of special arbitral tribunal .....	2502
Article 4. General provisions .....	2505
Article 5. Fact finding .....	2508
<b>ANNEX IX PARTICIPATION BY INTERNATIONAL ORGANIZATIONS</b>	
Article 1. Use of terms .....	2512
Article 2. Signature .....	2517
Article 3. Formal confirmation and accession .....	2522
Article 4. Extent of participation and rights and obligations .....	2527
Article 5. Declarations, notifications and communications .....	2532
Article 6. Responsibility and liability .....	2540
Article 7. Settlement of disputes .....	2544
Article 8. Applicability of Part XVII .....	2550
Index .....	2553