United States Department of State
Bureau of Oceans and International Environmental and Scientific Affairs

Limits in the Seas

No. 114

Iran's Maritime Claims

This paper is one of a series issued by the Office of Ocean Affairs, Bureau of Oceans and International Environmental and Scientific Affairs in the Department of State. The aim of the series is to set forth the basis of national arrangements for the measurement of marine areas by coastal states. It is intended for background use only. This paper does not necessarily represent an official acceptance by the United States Government of the limits claimed.

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March 16, 1994

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INTRODUCTION

On May 2, 1993, the Government of Iran completed legislative action on an "Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea." On July 6, 1993, the Iran notified the Secretary General of the United Nations of the legislation.[1] The legislation provides a reasonably comprehensive set of maritime claims to a territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf, and Iran's jurisdictional claims within those areas. Many of these claims do not comport with the requirements of international law as reflected in the 1982 United Nations Convention on the Law of the Sea (LOS Convention). The Act replaces provisions of earlier Iranian legislation:

-- Act relating to the breadth of the territorial waters and to the zone of supervision, July 19, 1934;[2]

-- Act of April 12, 1959 amending the Act of July 15, 1934 on the territorial sea and the contiguous zone of Iran;[3]

-- Law of June 19, 1955 concerning the Continental Shelf;[4] and

-- Proclamation of October 30, 1973 concerning the outer limit of the exclusive fishing zone of Iran in the Persian Gulf and the Sea of Oman.[5]

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[1] The full text of the English translation provided by the Permanent Mission of Iran to the UN by its note 152 of July 6, 1993 is reproduced from U.N. LAW OF THE SEA BULLETIN No. 24, December 1993, at 10-15, at Annex 1 of this study.

[2] An English translation of this 1934 act may be found in UN Legislative Series, LAWS REGULATIONS ON THE REGIME OF THE HIGH SEAS, UN Doc. ST/LEG/SER.B/1, at 81 (1951), and the French text found in UN Legislative Series, LAWS AND REGULATIONS ON THE REGIME OF THE TERRITORIAL SEA, UN Doc. ST/LEG/SER.B/6, at 24-25 (1957).

[3] This 1959 act may be found in French in United Nations Legislative Series, NATIONAL LEGISLATION AND TREATIES RELATING TO THE LAW OF THE SEA, UN Doc. ST/LEG/SER.B/15, at 88-89 (1970) and in English in United Nations Legislative Series, NATIONAL LEGISLATION AND TREATIES RELATING TO THE LAW OF THE SEA, UN Doc. ST/LEG/SER.B/16, at 10-11 (1974).

[4] The text of this 1955 law may be found in French in United Nations Legislative Series, LAWS AND REGULATIONS ON THE REGIME OF THE TERRITORIAL SEA, UN Doc. ST/LEG/SER.B/6, at 25 (1957) and in United Nations Legislative Series, NATIONAL LEGISLATION AND TREATIES RELATING TO THE LAW OF THE SEA, UN Doc. ST/LEG/SER.B/15, at 366-67 (1970), and in English in United Nations Legislative Series, NATIONAL LEGISLATION AND TREATIES RELATING TO THE LAW OF THE SEA, UN Doc. ST/LEG/SER.B/16, at 151 (1974) and in UN Office for Ocean Affairs and the Law of the Sea, LAW OF THE SEA: NATIONAL LEGISLATION ON THE CONTINENTAL SHELF, at 134 (UN Sales No. E.89.V.5, 1989).

[5] The text of this 1973 proclamation may be found in English in United Nations Legislative Series, NATIONAL LEGISLATION AND TREATIES RELATING TO THE LAW OF THE SEA, UN Doc. ST/LEG/SER.B/18, at 334-35 (1976), and in UN Office of the Special Representative of the Secretary-General for the Law of the Sea, LAW OF THE SEA: NATIONAL LEGISLATION ON THE EXCLUSIVE ECONOMIC ZONE, THE ECONOMIC ZONE AND THE EXCLUSIVE

The 1993 law also references the Decree-Law No. 2/250-67 dated 31 Tir 1352 (July 22, 1973) of the Council of Ministers which established straight baselines.[6]

Summary of the 1993 Iran Legislation

- Most of the straight baseline segments are not drawn in accordance with the relevant principles of the international law of the sea.

- The 1993 Act makes a claim to internal water status of the water "between islands" which lacks any basis in international law and is even more expansive than earlier Iranian claims.

- It fails to limit the power to suspend the right of innocent passage as required by international law.

- Warships and certain other ships are, contrary to international law, required to receive prior approval to engage in innocent passage.

- The 1993 Act provides for supplementary laws to limit further the right of innocent passage in ways not permitted by the law of the sea.

- It claims excessive criminal and civil jurisdiction within Iran's maritime zones.

- The 1993 Act prohibits military activities within the entire EEZ, which is consistent with the freedoms of navigation and overflight enjoyed by all States in the EEZ.

- The other delimitation provisions are consistent with the law of the sea.

Analysis of Marine Areas Act, 1993

The Act consists of 23 articles in four parts: Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf, and Final Provisions. The analysis of each article of the 1993 Marine Areas Act is preceded by the English text of that article in italics.

FISHERY ZONE AT 156, (UN Sales No. E.85.V.10, 1986).

[6] The text of this 1973 Decree-Law may be found in French, with a list of coordinates, in United Nations Legislative Series, National Legislation and Treaties Relating to the Law of the Sea, UN Doc. ST/LEG/SER.B19, at 55 (1980), and in English, including the coordinates of the basepoints and a map provided by Iran to the UN, in United Nations Office of Ocean Affairs and the Law of the Sea, THE LAW OF THE SEA--BASELINES: NATIONAL LEGISLATION WITH ILLUSTRATIVE MAPS, at 194-195 (Sales No. E.89, V.10, 1989) (the longitude value for point 9 should be 55°16'55"). The English translation is reproduced in Annex 2 of this study.

Part I, "Territorial Sea," consists of 11 articles.

Article 1
Sovereignty

The sovereignty of the Islamic Republic of Iran extends, beyond its land territory, internal waters and its islands in the Persian Gulf, the strait of Hormuz and the Oman Sea, to a belt of sea, adjacent to the baseline, described as the territorial sea.

This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

The text of article 1 is drawn largely from Article 2 of the LOS Convention. The emphasis on "its islands in the Persian gulf, the strait of Hormuz and the Oman Sea" is more specific than that contained in article 5 of Iran's act of 12 April 1959, and thus would appear to be calculated to enhance its claim of sovereignty over those islands which are disputed.[7] Normally, a coastal State's "islands" are considered part of its "land territory," as is reflected in Article 121 of the LOS Convention.[8]

Article 2
Outer Limit

The breadth of the territorial sea is 12 nautical miles, measured from the baseline. Each nautical mile is equal to 1852 meters.

The islands belonging to Iran, whether situated within or outside its territorial sea, have, in accordance with this Act, their own territorial sea.

Article 2 continues Iran's claim to a 12-mile[9] territorial sea, first made in article 3 of the 1959 Act. This is the maximum breadth allowable under Article 3 of the LOS Convention.

The second paragraph of article 2 once again emphasizes the "islands belonging to Iran."Although the LOS Convention provides special rules for the "low-tide elevations" (Art. 13) and "rocks" (Art. 121), a coastal State's islands always have their own territorial sea. The fact that Iran chose to add this language appears to further emphasize Iran's claims over these islands, some of which are disputed, and their marine resources.

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[7] Both the United Arab Emirates and Iran claim sovereignty over the islands Abu Musa (Jazireh-ye Abu Musa), Tunb al Kubra (Jazireh-ye Tonb-e Bozorg), and Tunb as Sughra (Jazireh-ye Tonb-e Kuchek).

[8] As reported in FBIS-NEA-93-076 on April 20, 1993, Mr. Hasan Qashqavi, a member of the Majlis' foreign policy committee, explained that the act "also clarifies the status of the areas beyond our land territory, the internal waters, and the islands in the Persian Gulf, the Strait of Hormuz, and the Sea of Oman."

[9] All miles in this study refer to nautical miles. One nautical mile equals 1,852 meters.

Article 3
Baseline

In the Persian Gulf and the Oman Sea, the baseline from which the breadth of the territorial sea is measured, is that one determined in the Decree No. 2 250-67 dated 31 Tir 1352 (July 22nd, 1973) of the Council of Ministers (annexed to this Act); in other areas and islands, the low-water line along the coast constitutes the baseline.

Waters on the landward side of the baseline of the territorial sea, and waters between islands belonging to Iran, where the distance of such islands does not exceed 24 nautical miles, form part of the internal waters and are under the sovereignty of the Islamic Republic of Iran.

The first subparagraph of article 3 reasserts Iran's baseline claim of July 21, 1973.[10] It does not list the coordinates, but incorporates them by reference to the earlier decree.

The segments of this straight baseline system, for the most part, do not comply with international law as reflected in the requirements of Article 7 of the LOS Convention. Rarely is the Iranian coastline "deeply indented" or fringed by islands as Article 7 requires. Indeed, in the vicinity of most segments, the Iranian coastline is quite smooth. While the LOS Convention does not set a maximum length, many of the segments are excessively long (13 of the 21 segments are between 25 and 114 miles long). While there is no consistent State practice on the maximum length of straight baseline segments, the United States believes that the maximum length of an appropriately drawn straight baseline segment normally should not exceed 24 miles.

The appropriate baseline for virtually all of the Iranian coast in the Persian Gulf and the Gulf of Oman is the "normal baseline," the low-water line. The Act does use the low-water line along the west coast of Iran in the Strait of Hormuz, and for short distances along the southern coasts of Jazireh-ye[11] Kish and Jazireh-ye Larak.

Baseline segment distances are given in Table 1.

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[10] See Annex 2 of this study for a listing of the basepoints.

[11] "Jazireh-ye" is Persian for "island."

TABLE 1
Iran's Straight Baseline Segments

Group "A": Shatt al Arab (Shatt al' Arab, Arvand Rud) to Jazireh-ye Kish

Segment	Length (Miles)
1-2	48 (approx.)
2-3	61.3
3-4	101.5
4-5	113.4
5-6	41.2

Group "B": Jazireh-ye Kish to Jazireh-ye Larak to the Rudkhaneh-ye Shirin

7-8	43.1
8-9	26.7
9-10	31.6
10-11	29.8
12-13	12.8
13-14	8.0

Group "C": Gulf of Oman - Damagheh-ye[12] Kuh to Khalij-e[13] Gavater (Gwatar Bay)

15-16	24.8
16-17	18.6
17-18	55.4
18-19	26.6
19-20	34.0
20-21	11.6
21-22	2.6
22-23	8.3
23-24	45.7
24-25	11 (approx.)

Group "A": Shatt al Arab (Shatt al 'Arab, Arvand Rud) to Jazireh-ye Kish

Segment 1-2 (see map 1) encloses the Khowr-e Musa from the intersection of the thalweg of the Shatt al Arab and a line joining the two banks of the mouth of the Shatt al Arab (Point 1) to Damagheh-ye Bahrgan (Point 2).[14] The exact location of basepoint No. 1 is uncertain. However, a basepoint must be located on land. Thus, Point 1, which is situated in the entrance to the Shatt al Arab, is not in accordance with international law.[15] The

[12] "Damagheh-ye" means "cape" in Persian.

[13] "Khalij-e" means "bay" in Persian.

[14] Using DMA chart NO 62434, 6th ed., Apr.21/1990, one can estimate a possible position at 29°54'50"N, 48°36'52"E.

[15] It should be noted that the maritime boundary between Iran and Iraq has not been negotiated.

Damagheh-ye Bahrgan does not qualify as a juridical bay; a juridical bay does exist landward of this claimed straight baseline.

Segment 2-3 parallels a smooth coast which is not deeply indented. Jazireh-ye Khark, on which Point 3 is located, is not a "fringe of islands". The effect of this 61-mile long segment is to push seaward the territorial sea limit as much as 20 miles from the low-water line, encompassing an area of 868 square kilometers (258 square nautical miles) as internal waters, which should be either territorial sea or EEZ.

Segment 3-4, over 100 miles long from Jazireh-ye Khark to Jazireh-ye Nakhilu which abuts the mainland. Two small bays along the coast landward of this segment could be closed as juridical bays. This straight baseline pushes the territorial seaward an additional 12 miles along a stretch of about 35 miles, adding about 2,650 square kilometers (775 square nautical miles) to Iran's territorial sea which would otherwise be EEZ. h addition, this straight baseline carves out about 3,250 square kilometers (950 square nautical miles) of internal waters that should be either territorial sea or EEZ.

Segment 4-5, the longest segment at 113 miles, parallels a smooth coastline with a slight curvature. Given the length of this baseline segment, the effect of this claim gives to Iran approximately 3,000 square kilometers (875 square nautical miles) of territorial sea that should be high seas or EEZ, and about 4,050 square kilometers (1,180 square nautical miles) of internal waters that should be either territorial sea or EEZ.

Segment 5-6 connects Jazireh-ye Lavan and Jazireh-ye Kish, skipping Jazireh-ye Hendorabi. Because this 41-mile long segment lies just off the coastline for most of its length, it has only a slight effect on the outer limit of the territorial sea.

A small portion of the low water line on Jazireh-ye Kish is used where the general direction of the coastline turns eastward.

Group "B": Jazireh-ye Kish to Jazireh-ye Larak to the Rudkhaneh-ye Shirin

Segment 7-8 begins at the south-east coast of Jazireh-ye Kish and extends due east to Ra's-e Shenas. This area of Iran is neither deeply indented nor fringed with islands. This 43-mile long segment has only a minimal effect on the outer limit of the territorial sea. The islands of Forur, Bani Forur and Sirri have not been included in the straight baseline system.

Segment 8-9 encloses the mouth of the Tor'eh-ye Khowran with a 27-mile line.A more appropriate line would be from Ra's-e Dastakan, on the western tip of Jazireh-ye Qeshm, northwest to the mainland in the vicinity of Ra's osh Shavari. Iran has not claimed any straight baselines to the Tumbs and Abu Musa, which are disputed with the United Arab Emirates.

Segments 9-10, 10-11, 12-13, and 13-14 connect islands in the northern side of the Strait of Hormuz. Segment 10-11, 30 miles long, pushes the territorial sea limit in the Strait to the Iran-Oman continental shelf boundary, as provided for in Article 4. The low-water line is used between points 11 and on Larak Island. Segments 12-13 and 13-14 have very little effect on the seaward extent of the territorial sea in this part of the Strait of Hormuz.

The low water-line is then used for the western coastline of Iran in the eastern Strait of Hormuz until Damagheh-ye Kuh.

Group "C": Gulf of Oman - Damagheh-ye Kuh to Khalij-e Gavater (Gwatar Bay)

This group of straight baseline segments begins at the point where the Iranian coastline turns eastward to face on the Gulf of Oman (see map 2).

Segment 15-16, 25 miles long, encloses a part of the coast that is neither deeply indented nor fringed with islands. The segment pushes the territorial sea limit, at one point, about two miles further seaward than what would result using the low-water line.

Segment 16-17, 19 miles long, encloses a mere curvature in the coastline that does not qualify as a juridical bay.

Segment 17-18, 55 miles long, encloses a gently curving coastline. Straight baselines would be appropriate only for the area immediately east of point 17, where the mainland is fringed with islands.

Segments 18-19 and 19-20, 27 and 34 miles long, respectively, are situated where the coastline has only slight curvatures.

Segment 20-21, 12 miles long, encloses Khalij-e Pozm and shallow headlands forming the western tip of the mouth of Khalij-e Chah Bahar.A shorter line could be drawn to enclose Khalij-e Pozm, a juridical bay.

Segment 21-22, less than 3 miles in length, encloses a shallow concave coastline.

Segment 22-23, 8 miles long, properly encloses Khalij-e Chah Bahar, a small juridical bay.

Segment 23-24, 46 miles long, is situated where the coastline is smooth, with no fringing islands.

Segment 24-25, 11 miles long, encloses part of Khalij-e Gavater (Gwatar Bay). Point 25 is located at sea on the line joining shorelines at the mouth of the bay which Iran shares with Pakistan. Iran's maritime boundary with Pakistan has not been delimited.

The second paragraph of article 3, as it relates to islands, restates a claim first made in article 6 of the April 1959 Act that "the waters between the islands belonging to Iran

situated at a distance not exceeding 12 nautical miles from one another shall constitute the internal waters of Iran", while expanding the distance to 24 miles. Both claims lack any basis in international law. While waters on the landward side of baselines are internal, international law makes no provision for making "waters between islands . . .internal waters." Islands have their own territorial sea, but, except for situations where the islands are part of a valid straight baseline system or closing line for a juridical bay, they do not define internal waters.

The 1993 Act drops the unusual claim made in article 5 of the 1959 Act that "islands situated at a distance not exceeding 12 nautical miles from one another shall be considered as a single island and the limit of their territorial sea shall be determined from the islands remotest from the center of the archipelago."Article 3 of the 1934 law had similarly claimed that "the islands comprising an archipelago shall be deemed to form a single island and the breadth of the territorial waters shall be measured from the islands remotest from the center of the archipelago."

Article 4
Delimitation

Wherever the territorial sea of Iran overlaps the territorial seas of the states with opposite or adjacent coasts, the dividing line between the territorial seas of Iran and those states shall be, unless otherwise agreed between the two parties, the median line every point of which is equidistant from the nearest point on the baseline of both states.

The language of article 4 replaces article 4 of the 1959 Act, and is unobjectionable. While article 4 reiterates only the first sentence of Article 15 of the LOS Convention, and therefore does not address the "special circumstances" exceptions to the equidistance rule, the inclusion of Article 15's language, "unless otherwise agreed between the two parties," mitigates this concern. Moreover, Iran has been, in practice, willing to negotiate appropriate continental shelf boundaries with its neighbors. For example, Iran has negotiated continental shelf boundaries, which the States involved may or may not recognize as coterminous with territorial sea boundaries, with Saudi Arabia, Qatar, Bahrain, United Arab Emirates (Dubai), and Oman. See the discussion of Article 19 below.

Article 5
Innocent Passage

The passage of foreign vessels, except as provided for in Article 9, is subject to the principle of innocent passage so long as it is not prejudicial to good order, peace and security of the Islamic Republic of Iran.

Passage, except as in cases of force majeure, *shall be continuous and expeditious.*

Article 5 is new. Earlier Iranian laws contained no provisions concerning innocent passage. The new text is largely unobjectionable. While not tracking the specific text of Articles 19(1) and 19(2) of the LOS Convention, this article uses all the key terms. The one problem is the reference to article 9 which, as discussed below, contains objectionable constraints on the right of innocent passage of warships and certain other vessels.

Article 6
Requirements of Innocent Passage

Passage of foreign vessels, in cases when they are engaged in any of the following activities shall not be considered innocent and shall be subject to relevant civil and criminal laws and regulations:

a) Any threat or use of force against the sovereignty, territorial integrity or political independence of the Islamic Republic of Iran, or in any other manner in violation of the principles of international law;
b) Any exercise or practice with weapons of any kind;
c) Any act aimed at collecting information prejudicial to national security, defence or economic interests of the Islamic Republic of Iran;
d) Any act of propaganda aimed at affecting the national security, defence or economic interests of the Islamic Republic of Iran;
e) the launching, landing or transferring on board of any aircraft or helicopter, or any military devices or personnel to other vessel or to the coast;
f) the loading or unloading of any commodity, currency or person contrary to the laws and regulations of the Islamic Republic of Iran;
g) Any act of pollution of the marine environment contrary to the rules and regulations of the Islamic Republic of Iran;
h) Any act of fishing or exploitation of the marine resources;
i) the carrying out of any scientific research and cartographic and seismic surveys or sampling activities;
j) interfering with any systems of communication or any other facilities or installations of the Islamic Republic of Iran;
k) Any other activity not having a direct bearing on passage.

Article 6 contains quite a few variations from the list of activities in Article 19 of the LOS Convention that make passage not innocent, several of which are objectionable.

While Article 19(2)(c) of the LOS Convention lists "any act aimed at collecting information to the prejudice of the defence or security of the coastal State," subparagraph c) of the 1993 Iranian Act uses the term "national security" and adds "economic interests". These additions do not seem to be at variance with the purpose and intent of Article 19(2)(c).

While Article 19(2)(d) lists "any act of propaganda aimed at affecting the defence or security of the coastal State," subparagraph d) of the Act again uses the term "national security" and adds "economic interests". These additions do not seem to be at variance with the purpose and intent of Article 19(2)(d).

Article 19(2)(e) lists "the launching, landing or taking on board of any aircraft", and Article 19(2)(f) proscribes similar acts with regard to "any military device". Subparagraph e) of the Act adds the transfer of "personnel" to other vessels or to the coast, an act not mentioned in Article 19(2)(e) and (f) of the LOS Convention, although arguably consistent with the "catch-all" provision of Article 19(2)(l).

Article 19(2)(g) refers to "the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State". Subparagraph f) of the Act omits the limiting words "customs, fiscal, immigration or sanitary" and thus would treat the loading or unloading of commodities, etc., contrary to any Iranian law, as making passage not innocent.

While Article 19(2)(h) of the LOS Convention only makes "wilful and serious pollution" non-innocent actions, subparagraph g) of the Iranian Act is more expansive, proscribing "any act of pollution of the marine environment . . ."

The addition in subparagraph h) of the Act of exploitation of marine resources to fishing (Article 19(2)(i) of the LOS Convention) is unobjectionable since such acts have no direct bearing on passage and clearly fall within the sovereignty of the coastal state.

Subparagraph i) of the Act limits "research or survey activities" (Article 19(2)(j) of the LOS Convention) to cartographic and seismic surveys and sampling activities.

Article 7
Supplementary Laws and Regulations

> *The Government of the Islamic Republic of Iran shall adopt such other regulations as are necessary for the protection of its national interests and the proper conduct of innocent passage.*

Article 21 of the LOS Convention permits the coastal State to adopt laws and regulations, in conformity with the provisions of the LOS Convention and other rules of international law, relating to innocent passage, in respect to eight categories.Article 7 of the 1993 Iranian Act appears to be too broadly cast. The language "necessary for the protection of its national interests and the proper conduct of innocent passage" does not contain the caveats of Articles 21(2) and 24 of the LOS Convention which prohibit the application of such laws to design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards. The LOS Convention also prohibits the imposition of requirements that have the practical effect of denying or impairing the right of

innocent passage or of discriminating in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

Article 8
Suspension of Innocent Passage

The Government of the Islamic Republic of Iran inspired by its high national interests and to defend its security may suspend the innocent passage in parts of its territorial sea.

Article 8 is objectionable in that it fails to state the two limitations on the right of a coastal State to suspend innocent passage. First, any such suspension must be temporary; and second, Iran must first publish the details of the suspension (time and place). It would have been preferable for Iran to have simply adopted the very comprehensive language of Article 25(3) of the LOS Convention.

Article 9
Exceptions to Innocent Passage

Passage of warships, submarines, nuclear-powered ships and vessels or any other floating objects or vessels carrying nuclear or other dangerous or noxious substances harmful to the environment, through the territorial sea is subject to the prior authorization of the relevant authorities of the Islamic Republic of Iran. Submarines are required to navigate on the surface and to show their flag.

The first sentence of article 9 is objectionable. The LOS Convention does not permit a coastal State to require a foreign vessel to seek the prior authorization of, or notification to, the coastal State as a condition of conducting innocent passage through its territorial sea. Iran's signature of the LOS Convention was also accompanied by an objectionable declaration which included its claim to require "prior authorization for warships willing to exercise the right of innocent passage through the territorial sea".[16] In the United States' view, such a "declaration" is tantamount to a reservation; however, Article 309 of the Convention specifically prohibits reservations. The United States has previously protested this claim[17] and on many occasions since 1989 U.S. warships have exercised the right of innocent passage through the Iranian territorial sea without notice to or reaction from Iran.[18]

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[16] Iran's declaration stated: "In the light of customary international law, the provisions of article 21, read in association with article 19 (on the Meaning of Innocent Passage) and article 25 (on the Rights of Protection of the Coastal States), recognizes (though implicitly) the rights of the Coastal States to take measures to safeguard their security interests including the adoption of laws and regulations regarding, *inter alia,* the requirements of prior authorization for warships willing to exercise the right of innocent passage through the territorial sea." UN, MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY-GENERAL: STATUS AS AT 31 DECEMBER 1992, UN Doc. ST/LEG/SER.E/11, at 769 (1993).

[17] See Limits in the Seas No. 112, at 59.

[18] See Secretary of Defense, ANNUAL REPORT TO THE PRESIDENT AND THE CONGRESS 78 (1992); *id.* at 85 (1993) and *id.,* Appendix G (1994) for assertions conducted by DoD assets between October 1, 1990 and September 30, 1991; between October 1, 1991 and September 30, 1992; and between October 1, 1992, and September 30, 1993, respectively.

Further, while the LOS Convention discusses nuclear-powered ships and vessels carrying dangerous cargoes, Article 23 simply requires that they carry appropriate documents and observe special precautionary measures established for such ships by international agreements.

The second sentence of article 9 is unobjectionable; it simply reiterates the relevant language of Article 20 of the LOS Convention that submarines must navigate on the surface while engaged in innocent passage.[19]

Article 10
Criminal Jurisdiction

In the following cases, the investigation, prosecution and punishment in connection with any crimes committed on board the ships passing through the territorial sea is within the jurisdiction of the judicial authorities of the Islamic Republic of Iran:

a) if the consequences of the crime extend to the Islamic Republic of Iran;
b) If the crime is of a kind to disturb the peace and order of the country or the public order of the territorial sea;
c) if the master of the ship or a diplomatic agent or consular officer of the flag state asks for the assistance and investigation;
d) if such investigation and prosecution is essential for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

Depending on how it is interpreted and applied, article 10 could be objectionable. Superficially, it simply tracks the language of Article 27(1) of the LOS Convention. However, the text raises concerns.Article 27(1) of the LOS Convention starts with the presumption that the "criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea . . .save only in the following cases . . ." The Iranian statute starts with the idea that 'the investigation, prosecution, and punishment in connection with any crimes . . .is within the jurisdiction of the judicial authorities of the Islamic Republic of Iran . . ." While unlikely, Iranian courts could apply liberally the first two sets of cases, "consequences of the crime" and "of a kind to disturb the peace and order of the country . . ." to claim broad criminal jurisdiction over persons on board ships passing through Iranian waters.

Second, Article 27 of the LOS Convention is located in a subsection dealing with "merchant ships and government ships operated for commercial purposes." In contrast, the Iranian Act does not limit its scope.Although it would be inconsistent with the international law principle of sovereign immunity to do so, under the Act Iran could claim the

[19] The United States and Russia have expressed their views on innocent passage in a 1989 joint statement reproduced as Annex III to Limits in the Seas No. 112.

right to investigate, prosecute, and punish "any crimes" even on board warships and other government vessels.

Article 11
Civil Jurisdiction

The competent authorities of the Islamic Republic of Iran may stop, divert or detain a ship and its crew for the enforcement of attachment orders or court judgements if:

a) the ship is passing through the territorial sea after leaving the internal waters of Iran;
b) the ship is lying in the territorial sea of Iran;
c) the ship is passing through the territorial sea, provided that the origin of the attachment order or court judgment rests in the obligations or requirements arising from the civil liability of the ship itself.

Article 11 is also of concern.Article 11(b) permits Iran to "stop, divert, or detain a ship and its crew for the enforcement of attachment orders or court judgments if . . .the ship is lying in the territorial sea of Iran . . .." This is much too broad a claim to civil jurisdiction.Article 28(2) of the LOS Convention provides that "[t]he coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State."

Article 11 also is defective in that it does not purport to limit its scope to commercial vessels.Any attempt to assert civil jurisdiction over or to detain a sovereign immune vessel would be a clear violation of Article 32 of the LOS Convention.

Part II, "Contiguous Zone," consists of two articles, 12 and 13.

Article 12
Definition

The contiguous zone is an area adjacent to the territorial sea the outer limit of which is 24 nautical miles from the baseline.

In 1934 Iran claimed the functional equivalent of a 12-mile contiguous zone, calling it a "zone of marine supervision."Article 12 of the 1993 Act is unobjectionable. Following the word "baseline(s)" the text would have been clearer had Iran added the language from Article 33(2) of the LOS Convention "from which the breadth of the territorial sea is measured."

Article 13
Civil and Criminal Jurisdiction

The Government of the Islamic Republic of Iran may adopt measures necessary to prevent the infringement of laws and regulations in the contiguous zone, including security, customs, maritime, fiscal, immigration, sanitary and environmental laws and regulations and investigation and punishment of offenders.

Article 13 is objectionable. International law as reflected in Article 24 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone and Article 33(l) of the LOS Convention permits a coastal State to exercise the control necessary to prevent or punish infringement of only four categories of offenses: violations of customs, fiscal, immigration, and sanitary (health and quarantine) laws and regulations. Article 13 is inconsistent with international law by adding the additional categories of "security," "maritime," and "environment." Indeed, article 13 seems designed to establish a "security zone". International law does not recognize the right of a coastal State to establish a security zone in peacetime that would restrict the exercise of free navigation and overflight beyond the territorial sea. Nevertheless, Iran's 1934 law claimed the zone of supervision existed "with a view to ensuring the operation of certain laws and conventions concerning the security and protection of the country and its interests or the safety of navigation." Iran consistently sought (and failed) during the Third UN LOS Conference to include "security" as an interest to be protected in the contiguous zone, and continued that claim in its declaration accompanying its signature of the LOS Convention.

On the other hand, the claim to be able to prevent the violation of "maritime . . .laws and regulations" in the contiguous zone is new, and raises concerns because of its potentially expansive application. Does this include cases which arise in admiralty? Does it permit Iran to restrict maritime navigation?

Finally, adding environment jurisdiction in the contiguous zone is both new and cause for concern. While the coastal State has certain authority to restrict vessel-source pollution within its territorial sea and EEZ, direct enforcement requires that the pollution have occurred in the territorial sea. If the vessel pollutes beyond the territorial sea, the coastal State may only require that the vessel provide information, unless the discharge causes or threatens major damage. See LOS Convention, Article 220.

Part III, "Exclusive Economic Zone and Continental Shelf," is comprised of eight articles.

Iran first claimed its continental shelf in 1955, and reiterated that claim in its 1973 proclamation. The 1973 proclamation also claimed an exclusive fishery zone coextensive with the outer limits of its continental shelf, or 50 miles in the Sea of Oman.

Article 14
Sovereign Rights and Jurisdiction in the Exclusive Economic Zone

Beyond its territorial sea which is called the exclusive economic zone, the Islamic Republic of Iran exercises its sovereign rights and jurisdiction with regard to:

a) exploration, exploitation, conservation and management of all natural resources, whether living or non-living, of the sea-bed and subsoil thereof and its superjacent waters, and with regard to other economic activities for the production of energy from water, currents and winds.

b) adoption and enforcement of appropriate laws and regulations especially for the following activities:

1) the establishment and use of artificial islands and other installations and structures, laying of submarine cables and pipelines and the establishment of relevant security and safety zones;

2) any kind of research;

3) the protection and preservation of the marine environment.

c) such sovereign rights as granted by regional or international treaties.

By Article 14, Iran became the 88th state to claim an EEZ. While article 14 largely comports with Article 56 of the LOS Convention, the United States does not accept Iran's declaration, filed upon signing the Convention, that the "notion of the 'exclusive economic zone'" was new and available only to States Party to the Convention. The ICJ has consistently ruled, since the Gulf of Maine delimitation case in 1984, that the exclusive economic zone is established customary law.[20]

The text of article 14 raises three concerns.

First, article 14(b)(1) could be read to impermissibly claim the right to establish within the EEZ "relevant security and safety zones." While Article 60 of the LOS Convention

[20] *Case Concerning Delimitation of the Maritime Boundary of the Gulf of Maine (Canada/United States)*, [1984] I.C.J. Rep. 246, 294, at para. 94; *Case Concerning the Continental Shelf (Tunisia/Libya),* [1982] ICJ Rep. 74, at para. 100; *Case Concerning the Continental Shelf (Libya/Malta),* [1985] ICJ Rep. 33, at para. 34; *Case Concerning the Maritime Delimitation in the Area between Greenland and Jan Mayen,* judgment para. 47-48 (June 14, 1993).Accord, B. Kwiatkowska, THE 200 MILE EXCLUSIVE ECONOMIC ZONE IN THE NEW LAW OF THE SEA 27-37 (1989) and D. Attard, THE EXCLUSIVE ECONOMIC ZONE IN INTERNATIONAL LAW 277-309 (1987).

contemplates small safety zones around artificial islands, installations and structures located in the EEZ, no provision of the LOS Convention permits security zones in the EEZ.

Article 58(1) of the LOS Convention sets forth the rule that there exists within the EEZ the high seas freedoms of navigation and overflight and other internationally lawful uses of the seas.

Second, in article 14(b)(1), Iran impermissibly claims the right to control the laying of submarine cables and pipelines in its EEZ.Article 58(l) of the LOS Convention sets forth the rule that there exists within the EEZ the high seas freedoms of laying submarine cables and pipelines.[21]

Third, in article 14(b)(2), Iran claims the right to control "any kind of research."Article 56(1)(b)(ii) of the LOS Convention gives the coastal State jurisdiction with regard to "marine scientific research" (MSR). The term MSR is not defined in the LOS Convention. The United States accepts that MSR is the general term most often used to describe those activities undertaken in the ocean and coastal waters to expand scientific knowledge of the marine environment. MSR includes oceanography, marine biology, fisheries research, scientific ocean drilling, geological/geophysical scientific surveying, as well as other activities with a scientific purpose. It may be noted, however, that "survey activities," "prospecting" and "exploration" are primarily dealt with in other parts of the LOS Convention, notably Parts II, III, XI and Annex III, rather than Part XIII. "This would indicate that those activities donot fall under the regime of Part XIII."[22] When activities similar to those mentioned above as MSR are conducted for commercial resource purposes, most governments, including the United States, do not treat them as MSR.Additionally, activities such as hydrographic surveys,[23] the purpose of which is to obtain information for the making of navigational charts, and the collection of information that, whether or not classified, is to be used for military purposes, are not considered by the United States to

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[21] On the other hand, Article 79(3) of the LOS Convention makes the "delineation of the course for the laying of submarine pipelines on the continental shelf" subject to the consent of the coastal State.

[22] UN Office for Oceans Affairs and the Law of the Sea, LAW OF THE SEA: MARINE SCIENTIFIC RESEARCH: A GUIDE TO THE IMPLEMENTATION OF THE RELEVANT PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1 para. 2 (UN Sales No. E.91.V.3, 1991). See also, id., LAW OF THE SEA: NATIONAL LEGISLATION, REGULATIONS AND SUPPLEMENTARY DOCUMENTS ON MARINE SCIENTIFIC RESEARCH IN AREAS UNDER NATIONAL JURISDICTION (UN Sales No. E.89.V.9, 1989). The United States does not claim jurisdiction over MSR in its EEZ.

[23] The International Hydrographic Organization has defined hydrographic surveys as "the science of measuring and depicting those parameters necessary to describe the precise nature and configuration of the sea-bed and coastal strip, its geographical relationship to the land-mass, and the characteristics and dynamics of the sea." Definition 40, Glossary of Technical Terms Used in the United Nations Convention on the Law of the Sea, Appendix I of UN Office for Ocean Affairs and the Law of the Sea, THE LAW OF THE SEA: BASELINES: AN EXAMINATION OF THE RELEVANT PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 56 (UN Sales No. E.88.V.5*, 1989).

be MSR and, therefore, are not subject to coastal state jurisdiction.[24] To the extent that Iran interprets "any kind of research" beyond MSR as defined in the Convention, they would interfere with the high seas freedoms of other States, including the right to conduct hydrographic surveys.

Article 15
Sovereign Rights and Jurisdiction in the Continental Shelf

> *The provisions of Article 14 shall apply* mutatis mutandis *to the sovereign rights and jurisdiction of the Islamic Republic of Iran in its continental shelf, which comprises the sea-bed and subsoil of the marine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory.*

Article 15 purports to apply the same rules in the EEZ to the continental shelf. Since Iran is shelf- and EEZ-locked (because boundaries required with neighboring States prevent Iran from claiming a maximum breadth of EEZ or continental shelf), this makes some sense. However, the same objections discussed above concerning security, safety, and research apply to the continental shelf as well.[25]

Article 16
Prohibited Activities

> *Foreign military activities and practices, collection of information and any other activity inconsistent with the rights and interests of the Islamic Republic of Iran in the exclusive economic zone and the continental shelf are prohibited.*

Article 16 is perhaps the most objectionable article in the Act. It purports to establish a security zone for the entire EEZ, restricting freedom of military navigation, overflight, and other activities. Its blanket prohibition of "foreign military activities and practices . . . inconsistent with the rights and interests" of Iran within the EEZ is clearly inconsistent with the LOS Convention. Article 58 of the LOS Convention affirms that all States have the high-seas freedoms listed in Article 87 of the Convention. A coastal State does not have the right to prohibit or restrict foreign military activities within the EEZ during times of peace.

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[24] 1989 State telegram 122770. In Part XII of the Convention regarding protection and preservation of the marine environment, Article 236 provides that the environmental provisions of the Convention do not apply to warships, naval auxiliaries, and other vessels and aircraft owned or operated by a nation and used, for the time being, only on government non-commercial service. The provisions of Part XIII regarding marine scientific research similarly do not apply to military activities. Oxman, *The Regime of Warships Under the United Nations Convention on the Law of the Sea,* 24 VA. J. INT'L L. 809, 844-47 (1984). See also Negroponte, *Current Developments in U.S. Oceans Policy,* Dep't. St. Bull., Sep. 1986, at 86. U.S. policy is to encourage freedom of MSR.

[25] With regard to submarine cables and pipelines, Article 79 of the LOS Convention permits limited coastal state jurisdiction.

Article 17
Scientific Activities, Exploration and Research

Any activity to recover drowned[26] *objects and scientific research and exploration in the exclusive economic zone and the continental shelf is subject to the permission of the relevant authorities of the Islamic Republic of Iran.*

Article 17 is unnecessary. While the coastal State has the right to regulate, authorize, and conduct MSR in its EEZ and on its continental shelf (within reasonable limits), the reference to "recover drowned objects" is potentially too broad. If it refers to meteorological gear, sonobuoys, torpedoes, or other equipment used in weapons tests, or other items used in military exercises, it is objectionable; these activities are not subject to coastal State regulation. If it is in reference to MSR or equipment used in resource exploitation (e.g., core samplers, seismic test gear, fishing nets and traps), it comports with international law.

Article 18
Preservation of Environment and Natural Resources

The Government of the Islamic Republic of Iran shall take appropriate measures for the protection and preservation of the marine environment and proper exploitation of living and other resources of the exclusive economic zone and the continental shelf.

Article 18 is unobjectionable.

Article 19
Delimitation

The limits of the exclusive economic zone and the continental shelf of the Islamic Republic of Iran, unless otherwise determined with bilateral agreements, shall be a line every point of which is equidistant from the nearest point on the baselines of two states.

The language in article 19, "unless otherwise agreed between the two parties," takes into account the fact that Iran has negotiated continental shelf boundaries with Saudi Arabia, Qatar, Bahrain, United Arab Emirates (Dubai), and Oman.[27] Iran does not have boundary agreements with other parts of the Emirates, Iraq, Kuwait or Pakistan.

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[26] Probably "sunken" objects.

[27] See *Limits in the Seas* Nos. 24, 25, 58, 63, 67 and 94 (1970, 1974, 1976 and 1981); 1 INTERNATIONAL MARITIME BOUNDARIES 315-20 (Charney and Alexander eds. 1993); and 2 *id.* 1481 *et seq.*

Article 19 is unobjectionable in practical result, if not fully consistent with the LOS Convention. To the extent it refers to bilateral agreements, it is consistent with Articles 74 and 83 of the LOS Convention.

Article 20
Civil and Criminal Jurisdiction

The Islamic Republic of Iran shall exercise its criminal and civil jurisdiction against offenders of the laws and regulations in the exclusive economic zone and continental shelf and shall, as appropriate, investigate or detain them.

Article 20 is unobjectionable, assuming it is applied consistent with Article 73 of the LOS Convention.

Article 21
Right of Hot Pursuit

The Government of the Islamic Republic of Iran reserves its right of hot pursuit against offenders of laws and regulations relating to its internal waters, territorial sea, contiguous zone, exclusive economic zone and the continental shelf, in such areas and the high seas.

Article 21 is unobjectionable, assuming it is applied consistent with Article 111 of the LOS Convention.

Part IV, "Final Provisions," is composed of two articles.

Article 22
Executive Regulations

The Council of Ministers shall specify the mandates and responsibilities [powers and duties] of different ministries and organizations charged with the enforcement of this Act.

The said ministries and organizations shall, within one year after the approval of this Act, prepare the necessary regulations and have them approved by the Council of Ministers.

Pending the adoption of new executive regulations, the existing rules and regulations shall remain in force.

Article 22 is unobjectionable. The goal is for the implementing regulations to be completed within one year of the date of approval of the Act, May 2, 1994. Of course, Iran's "existing rules and regulations" are also objectionable in many respects.

Article 23

> *All laws and regulations contrary to the present Act, upon its ratification, are hereby abrogated.*

Article 23, untitled, is unobjectionable.

Transit Passage

It is worth noting that the Act does not address passage through straits used for international navigation at all. Although Iran's declaration accompanying its signature of the LOS Convention claimed the right of transit passage through straits used for international navigation -- and the "notion of 'exclusive economic zone'" -- are contractual rights limited to States Party to the LOS Convention,[28] it is generally agreed that the transit passage is a right of all States under international law. The Strait of Hormuz is one of the most important in the world. While Iran is not obliged to affirm the right in its national law, failure to address the right of surface ships, submarines, and aircraft to transit the strait and its approaches raises the possibility of diplomatic and operational disagreement. The commercial and naval forces of the United States and other maritime nations regularly exercise the right of transit passage through the Strait of Hormuz. The United States has previously made its views known to Iran that the right of transit passage applies in the Strait of Hormuz to the ships and aircraft of all States.[29]

Military Operations

Iran's excessive maritime claims cannot stand in the face of the day-to-day military operations the United States and other States are conducting in the region consistent with international law. U.S. aircraft carriers, aircraft, submarines and surface combatants, as well as other States' military units, operate regularly in the international waters of the northern and central Persian Gulf while enforcing UN sanctions against Iraq. When there was a mission to sweep mines in the Gulf, minesweeping ships and helicopters actively sought out and destroyed mines over many months following the two Gulf wars. This was a "foreign military . . .practice" clearly inconsistent with article 16 of the Iranian Act, conducted without objection from Iran. Moreover, warships representing a wide variety of nations pass through Iran's territorial sea in innocent passage without objection from Iran, despite Iran's requirement that prior authorization be obtained for each transit. These examples of State practice, shared in by many nations and fully consistent with international law, clearly outweigh Iran's claims to restrict freedom of navigation.

Diplomatic Protest

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[28] UN, MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY-GENERAL: STATUS AS AT 31 DECEMBER 1992, UN Doc. ST/LEG/SER.E/11 at 769, (1993).

[29] See Limits in the Seas No. 112, at 65-67.

The views of the United States on Iran's 1993 Marine Areas Act were expressed in a note to the UN Secretary General dated January 11, 1994.[30]

[30] This note is reproduced in Annex 3 of this study.

ANNEX 1

Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Oman Sea[31]

PART I
Territorial sea

Article 1
Sovereignty

The sovereignty of the Islamic Republic of Iran extends, beyond its land territory, internal waters and its islands in the Persian Gulf, the strait of Hormuz and the Oman Sea, to a belt of sea, adjacent to the baseline, described as the territorial sea.

This sovereignty extends to the airspace over the territorial sea as well as to its bed and subsoil.

Article 2
Outer limit

The breadth of the territorial sea is 12 nautical miles, measured from the baseline. Each nautical mile is equal to 1,352 metres.

The islands belonging to Iran, whether situated within or outside its territorial sea, have, in accordance with this Act, their own territorial sea.

Article 3
Baseline

In the Persian Gulf and the Oman Sea, the baseline from which the breadth of the territorial sea is measured is that one determined in Decree No. 2/250-67 dated 31 Tir 1352 (22 July 1973) of the Council of Ministers (annexed to this Act);[2] in other areas and islands, the low-water line along the coast constitutes the baseline.

Waters on the landward side of the baseline of the territorial sea, and waters between islands belonging to Iran, where the distance of such islands does not exceed 24 nautical miles, form part of the internal waters and are under the sovereignty of the Islamic Republic of Iran.

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[31] Text transmitted by the Permanent Mission of the Islamic Republic of Iran to the United Nations in a note verbale No. 152, dated July 6, 1993. Annex 1 is reproduced here from UN Law of the Sea Bulletin No. 24, at 10-15 (Dec. 1993) (the length of a nautical mile correctly reads "1,852" in the text transmitted to the UN).

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

Article 4
Delimitation

Wherever the territorial sea of Iran overlaps the territorial seas of the States with opposite or adjacent coasts, the dividing line between the territorial seas of Iran and those states shall be, unless otherwise agreed between the two parties, the median line every point of which is equidistant from the nearest point on the baseline of both States.

Article 5
Innocent passage

The passage of foreign vessels, except as provided for in article 9, is subject to the principle of innocent passage so long as it is not prejudicial to good order, peace and security of the Islamic Republic of Iran.

Passage, except as in cases of force majeure, shall be continuous and expeditious.

Article 6
Requirements of innocent passage

Passage of foreign vessels, in cases when they are engaged in any of the following activities, shall not be considered innocent and shall be subject to relevant civil and criminal laws and regulations:

(a) Any threat or use of force against the sovereignty, territorial integrity or political independence of the Islamic Republic of Iran, or in any other manner in violation of the principles of international law;

(b) Any exercise or practice with weapons of any kind;

(c) Any act aimed at collecting information prejudicial to the national security, defence or economic interests of the Islamic Republic of Iran;

(d) Any act of propaganda aimed at affecting the national security, defence or economic interests of the Islamic Republic of Iran;

(e) The launching, landing or transferring on board of any aircraft or helicopter, or any military devices or personnel to another vessel or to the coast;

(f) The loading or unloading of any commodity, currency or person contrary to the laws and regulations of the Islamic Republic of Iran;

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

(g) Any act of pollution of the marine environment contrary to the rules and regulations of the Islamic Republic of Iran;

(h) Any act of fishing or exploitation of the marine resources;

(i) The carrying out of any scientific research and cartographic and seismic surveys or sampling activities;

(j) Interfering with any systems of communication or any other facilities or installations of the Islamic Republic of Iran;

(k) Any other activity not having a direct bearing on passage.

Article 7
Supplementary laws and regulations

The Government of the Islamic Republic of Iran shall adopt such other regulations as are necessary for the protection of its national interests and the proper conduct of innocent passage.

Article 8
Suspension of innocent passage

The Government of the Islamic Republic of Iran, inspired by its high national interests and to defend its security, may suspend the innocent passage in parts of its territorial sea.

Article 9
Exceptions to innocent passage

Passage of warships, submarines, nuclear-powered ships and vessels or any other floating objects or vessels carrying nuclear or other dangerous or noxious substances harmful to the environment, through the territorial sea is subject to the prior authorization of the relevant authorities of the Islamic Republic of Iran. Submarines are required to navigate on the surface and to show their flag.

Article 10
Criminal jurisdiction

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

In the following cases, the investigation, prosecution, and punishment in connection with any crimes committed on board the ships passing through the territorial sea is within the jurisdiction of the judicial authorities of the Islamic Republic of Iran:

(a) If the consequences of the crime extend to the Islamic Republic of Iran;

(b) If the crime is of a kind to disturb the peace and order of the country or the public order of the territorial sea;

(c) If the master of the ship or a diplomatic agent or consular officer of the flag State asks for the assistance and investigation;

(d) If such investigation and prosecution is essential for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

Article 11
Civil jurisdiction

The competent authorities of the Islamic Republic of Iran may stop, divert or detain a ship and its crew for the enforcement of attachment orders or court judgements if:

(a) The ship is passing through the territorial sea after leaving the internal waters of Iran;

(b) The ship is lying in the territorial sea of Iran;

(c) The ship is passing through the territorial sea, provided that the origin of the attachment order or court judgement rests in the obligations or requirements arising from the civil liability of the ship itself.

PART II
Contiguous zone

Article 12
Definition

The contiguous zone is an area adjacent to the territorial sea the outer limit of which is 24 nautical miles from the baseline.

Article 13
Civil and criminal jurisdiction

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

The Government of the Islamic Republic of Iran may adopt measures necessary to prevent the infringement of laws and regulations in the contiguous zone, including security, customs, maritime, fiscal, immigration, sanitary and environmental laws and regulations and investigation and punishment of offenders.

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

PART III
Exclusive economic zone and continental shelf

Article 14
Sovereign rights and jurisdiction in the exclusive economic zone

Beyond its territorial sea, which is called the exclusive economic zone, the Islamic Republic of Iran exercises its sovereign rights and jurisdiction with regard to:

(a) Exploration, exploitation, conservation and management of all natural resources, whether living or non-living, of the seabed and subsoil thereof and its superadjacent waters, and with regard to other economic activities for the production of energy from water, currents and winds. These rights are exclusive;

(b) Adoption and enforcement of appropriate laws and regulations, especially for the following activities:

(i) The establishment and use of artificial islands and other installations and structures, laying of submarine cables and pipelines and the establishment of relevant security and safety zones;

(ii) Any kind of research;

(iii) The protection and preservation of the marine environment;

(c) Such sovereign rights as granted by regional or international treaties.

Article 15
Sovereign rights and jurisdiction in the continental shelf

The provisions of article 14 shall apply mutatis mutandis to the sovereign rights and jurisdiction of the Islamic Republic of Iran in its continental shelf, which comprises the seabed and subsoil of the marine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory.

Article 16
Prohibited activities

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

Foreign military activities and practices, collection of information and any other activity inconsistent with the rights and interests of the Islamic Republic of Iran in the exclusive economic zone and the continental shelf are prohibited.

Article 17
Scientific activities, exploration and research

Any activity to recover drowned objects and scientific research and exploration in the exclusive economic zone and the continental shelf is subject to the permission of the relevant authorities of the Islamic Republic of Iran.

Article 18
Preservation of the environment and natural resources

The Government of the Islamic Republic of Iran shall take appropriate measures for the protection and preservation of the marine environment and proper exploitation of living and other resources of the exclusive economic zone and the continental shelf.

Article 19
Delimitation

The limits of the exclusive economic zone and the continental shelf of the Islamic Republic of Iran, unless otherwise determined in accordance with bilateral agreements, shall be a line every point of which is equidistant from the nearest point on the baselines of two States.

Article 20
Civil and criminal jurisdiction

The Islamic Republic of Iran shall exercise its criminal and civil jurisdiction against offenders of the laws and regulations in the exclusive economic zone and continental shelf and shall, as appropriate, investigate or detain them.

Article 21
Right of hot pursuit

The Government of the Islamic Republic of Iran reserves its right of hot pursuit against offenders of laws and regulations relating to its internal waters, territorial sea, contiguous zone, exclusive economic zone and the continental shelf, in such areas and the high seas.

ANNEX 1 (cont'd)

Act on the Marine Areas of the Islamic Republic of Iran
in the Persian Gulf and the Oman Sea

PART IV
Final provisions

Article 22
Executive regulations

The Council of Ministers shall specify the mandates and responsibilities [powers and duties] of different ministries and organizations charged with the enforcement of this Act.

The said ministries and organizations shall, within one year after the approval of this Act, prepare the necessary regulations and have them approved by the Council of Ministers.

Pending the adoption of new executive regulations, the existing rules and regulations shall remain in force.

Article 23

All laws and regulations contrary to the present Act, upon its ratification, are hereby abrogated.

The above Act, comprising 23 articles, was ratified at the plenary meeting of Tuesday, the thirty-first day of Farvardin, one thousand three hundred and seventy-two (20 April 1993), of the Islamic Consultative Assembly and was approved by the Council of Guardians on Ordibehesht 12, 1372 (2 May 1993).

ANNEX 2

IRAN DECREE-LAW JULY 21, 1973[32]

I.

The baseline, established in the Act of 22 Farvardin 1338 (12 April 1959) amending the Act of 24 Tir 1313 (15 July 1934) concerning the limits of the territorial waters and the contiguous zone of Iran, is determined as follows:

A. Straight lines joining the following points:

(1) *Point 1,* situated at the point where the thalweg of the Shatt El-Arab intersects the straight line joining the two banks of the mouth of the Shatt El-Arab at the low-water line.

(2) *Point 2,* situated at the mouth of the Behregan, whose geographical co-ordinates are: latitude 29°59'50"N., and longitude 49°33'55"E.

(3) *Point 3,* situated on the south coast of Kharg Island, whose geographical co-ordinates are: latitude 29°12'29"N., and longitude 50°18'40"E.

(4) *Point 4,* situated on the south coast of Nakhilu Island, whose geographical co-ordinates are: latitude 27°50'40"N., and longitude 51°27'15"E.

(5) *Point 5,* situated on Lavan Island, whose geographical co-ordinates are: latitude 26°47'25"N., and longitude 53°13'00"E.

(6) *Point 6,* situated on the south-west coast of Kish Island, whose geographical co-ordinates are: latitude 26°30'55"N., and longitude 53°55'10"E.

(7) *Point 7,* situated on the south-east coast of Kish Island, whose geographical co-ordinates are: latitude 26°30'10"N., and longitude 53°59'20"E.

(8) *Point 8,* situated at Ras-o-Shenas, whose geographical co-ordinates are: latitude 26°29'35"N., and longitude 54°47'20"E.

(9) *Point 9,* situated on the south-west coast of Qeshm Island, whose geographical co-ordinates are: latitude 26°32'25"N., and longitude 55°16'55"E.

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[32] Approved by the Council of Ministers on July 21, 1973 and transmitted by the Permanent Mission of Iran to the United Nations by a Note Verbale on December 28, 1978. Published in the United Nations Legislative Series, ST/LEG/SER.B/19, p.55 (French text).A copy of the map referred to in section II was handed over to the Office of Ocean Affairs, United Nations by an official of the Islamic Republic of Iran in September 1988.

(10) *Point 10,* situated on the south coast of Hengam Island, whose geographical co-ordinates are: latitude 26°36'40"N., and longitude 55°51'50"E.

(11) *Point 11,* situated on the south coast of Larak Island, whose geographical co-ordinates are: latitude 26°49'30"N., and longitude 56°21'50"E.

(12) *Point 12,* situated on the east coast of Larak Island, whose geographical co-ordinates are: latitude 26°51'15"N., and longitude 56°24'05"E.

(13) *Point 13,* situated on the east coast of Hormuz Island, whose geographical co-ordinates are: latitude 27°02'30"N., and longitude 56°29'40"E.

(14) *Point 14,* whose geographical co-ordinates are: latitude 27°08'30"N., and longitude 56°35'40"E.

(15) *Point 15,* whose geographical co-ordinates are: latitude 25°47'10"N., and longitude 57°19'55"E.

(16) *Point 16,* whose geographical co-ordinates are: latitude 25°38'10"N., and longitude 57°45'30"E.

(17) *Point 17,* whose geographical co-ordinates are: latitude 25°33'20"N., and longitude 58°05'20"E.

(18) *Point 18,* whose geographical co-ordinates are: latitude 25°24'05"N., and longitude 59°05'40"E.

(19) *Point 19,* whose geographical co-ordinates are: 25°23'45"N., and longitude 59°35'000"E.

(20) *Point 20,* whose geographical co-ordinates are: latitude 25°19'20"N., and longitude 60°12'10"E.

(21) *Point 21,* whose geographical co-ordinates are: latitude 25°17'25"N., and longitude 60°24'50"E.

(22) *Point 22,* whose geographical co-ordinates are: latitude 25°16'36"N., and longitude 60°27'30"E.

(23) *Point 23,* whose geographical co-ordinates are: latitude 25°16'20"N., and longitude 60°36'40"E.

(24) *Point 24,* whose geographical co-ordinates are: latitude 25°03'30"N., and longitude 61°25'00"E.

(25) *Point 25,* situated at the point of intersection of the meridian 61°37'03"E., and the straight line joining the shorelines at the entrance of the Gwadar Gulf at the low-water line.

B. Between points 6 and 7, situated on Kish Island, points 11 and 12, situated on Larak Island, and points 14 and 15, situated in the Strait of Hormuz, the low-water line shall constitute the baseline.

II.

The baseline used for measuring the breadth of the territorial sea of Iran is shown on the Map of the Persian Gulf the first edition of which was published in Shahrivar 1349 (September 1970) by the National Geographical Organization of Iran, on a scale of 1:1,500,000, and is attached to the present Decree. The original of the Decree is kept in the Office of the President of the Council of Ministers.

ANNEX 3

United States Note to the United Nations
January 11, 1994 (USUN 3509/437)

The Permanent Mission of the United States of America to the United Nations presents its compliments to the United Nations and has the honor to advise that the Government of the United States of America has studied carefully the legislative acts of Iran setting forth Iran's maritime claims, including the Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and Oman Sea of May 2, 1993, and Decree-Law No. 2/250-67, 31 Tir 1352 [July 22, 1973] of the Council of Ministers, taking into account the relevant provisions of international law as reflected in the 1982 United Nations Convention on the Law of the Sea, which will enter into force on November 16, 1994.

The United States is of the view that certain provisions of these acts are inconsistent with international law, and the United States reserves its rights and the rights of its nationals in that regard.

The United States wishes to recall that, as recognized in customary international law and as reflected in the 1982 United Nations Convention on the Law of the Sea, except where otherwise provided in the Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state. Only in localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, may the coastal state elect to use the method of straight baselines joining appropriate points in drawing the baseline from which the breadth of the territorial sea is measured.

The United States notes that, notwithstanding the fact that the Iranian coastline is rarely deeply indented or fringed by islands, Iran has employed straight baselines along most of its coastline and that, in the vicinity of most segments, the Iranian coastline is quite smooth. Consequently, the appropriate baseline for virtually all of the Iranian coast in the Persian Gulf and the Gulf of Oman is the normal baseline, the low-water line. While the Convention does not set a maximum length for baseline segments, many of the segments set out in Iranian law are excessively long. In fact, eleven of the 21 segments are between 30 and 120 miles long. The United States believes that the maximum length of an appropriately drawn straight baseline segment normally should not exceed 24 nautical miles.

The United States also wishes to recall that islands may not be used to define internal waters, except for situations where the islands are part of a valid straight baseline system, or of a closing line for a juridical bay. Article 3 of the 1993 Marine Areas Act of Iran asserts that the waters between islands belonging to Iran where the distance of such islands does not exceed 24 nautical miles form part of the internal waters of Iran. This claim has no basis in international law. The United States notes that Article 19[2][h] of the 1982 Law of the Sea Convention provides that "any act of wilful and serious pollution contrary to this Convention" may be considered prejudicial to the peace, good order or security of the

coastal state. In specifying activities in its territorial sea that Iran does not consider to be innocent, article 6 [g] of the 1993 Marine Areas Act includes "any act of pollution of the marine environment contrary to the rules and regulations of the Islamic Republic of Iran." The United States assumes that the relevant Iranian rules and regulations will conform to the accepted rule of international law set out in Article 19 [2][h] of the 1982 Law of the Sea Convention.

The United States recalls that, under articles 21 and 24 of the 1982 Law of the Sea Convention, a coastal state may adopt laws and regulations relating to innocent passage relating to the design, construction, manning or equipment of foreign ships only if they are giving effect to generally accepted international rules or standards, and may not adopt requirements that have the practical effect of denying or impairing the right of innocent passage or of discriminating in form or in fact against the ships of any state or against ships carrying cargoes to, from or on behalf of any state.

The United States notes that Iran's claim in article 7 of the right to adopt "such other regulations as are necessary for the protection of its national interest and the proper conduct of innocent passage" cannot confer upon it any greater rights than those authorized under international law.

The United States also notes that international law permits a coastal state to suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, and that such suspension may take effect only after having been duly published. Article 8 of Iran's 1993 Marine Areas Act cannot be accepted as removing the requirements that any suspension of innocent passage through parts of its territorial sea be temporary and that it take effect only after being duly published.

Article 9 of the 1993 Marine Areas Act impermissibly seeks to require foreign warships, and vessels carrying dangerous or noxious substances harmful to the environment, to obtain prior authorization from Iran to pass through Iran's territorial sea. Such a requirement has no foundation in the provisions of the 1982 Law of the Sea Convention, and the United States will continue to reject, as contrary to international law, any attempt to impose such a requirement on the exercise of the right of innocent passage of all ships.

The United States assumes that Iran will not seek to exercise criminal jurisdiction, pursuant to Article 10 of the 1993 Marine Areas Act, on board ships other than merchant ships and government ships operated for commercial purposes, or to exercise civil jurisdiction, pursuant to Article 11 of this Act, in situations not contemplated by Article 28 of the 1982 Law of the Sea Convention.

The United States further recalls that the scope of a coastal state's authority in its contiguous zone, a maritime zone contiguous to and seaward of the territorial sea in which freedoms of navigation and overflight may be exercised, is limited to the exercise of the control necessary to prevent and punish infringement of its customs, fiscal, immigration and

sanitary laws and regulations committed within its territory or territorial sea, and that the authority of the coastal state to enforce its environmental laws seaward of its territorial sea is as prescribed in Article 220 of the Convention. The claim in article 13 of the 1993 Act to adopt measures in Iran's contiguous zone necessary to prevent infringement of its security, maritime and environmental laws exceeds that permitted by international law.

Although a coastal state may establish, in accordance with Article 60, paragraph [4] and [5], of the 1982 Law of the Sea Convention, safety zones of a radius not exceeding 500 meters around artificial islands and other installations and structures located within its exclusive economic zone. International law does not authorize a coastal state to establish so-called security zones in such areas.Article 14 [b][1] or the 1993 Marine Areas Act impermissible asserts the right to do so. That provision also appears to claim more authority to control the laying of submarine cables and pipelines on Iran's continental shelf than is permitted by international law as reflected in Article 79 of the 1982 Law of the Sea Convention. Further, international law permits a coastal state to regulate only marine scientific research in its exclusive economic zone, not "any kind of research" as claimed in article 14 [b] [2] of the 1993 Marine Areas Act. In particular, hydrographic surveys conducted seaward of the territorial sea are not marine scientific research and are not subject to coastal state jurisdiction.

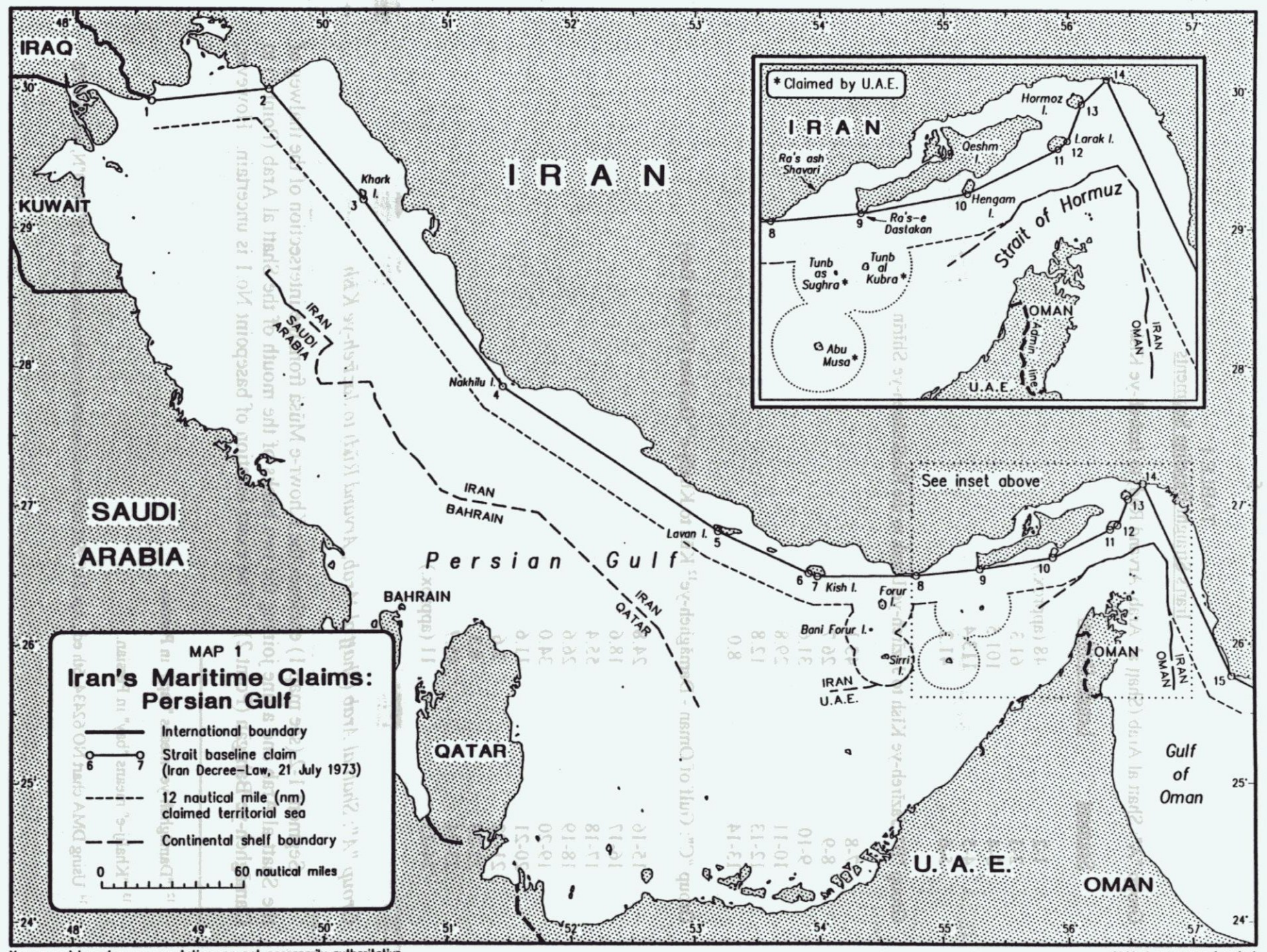
The United States notes that, to the extent Article 16 of the 1993 Marine Areas Act seeks to prohibit in the Iranian exclusive economic zone the exercise by foreign warships and military aircraft of their freedoms of navigation and overflight, it contravenes international law. The United States has previously protested Iran's claim in this regard, and will continue to operate its ships and aircraft consistent with its rights under international law.

The Government of the United States wishes to assure the Government of the Islamic Republic of Iran that its objections to these claims should not be viewed as singling out the Islamic Republic of Iran for criticism, but is part of its worldwide effort to preserve the internationally recognized rights and freedoms of the international community in navigation and overflight and other related high seas uses, and thereby maintain the balance of interests reflected in the Convention.

This is only of a number of U.S. protests of those claims by coastal states which are not consistent with international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

The Government of the United States requests that this Note be circulated by the United Nations as part of the next Law of the Sea Bulletin.

The Permanent Mission of the United States of America to the United Nations avails itself of this opportunity to renew to the United Nations the assurances of its highest regard.



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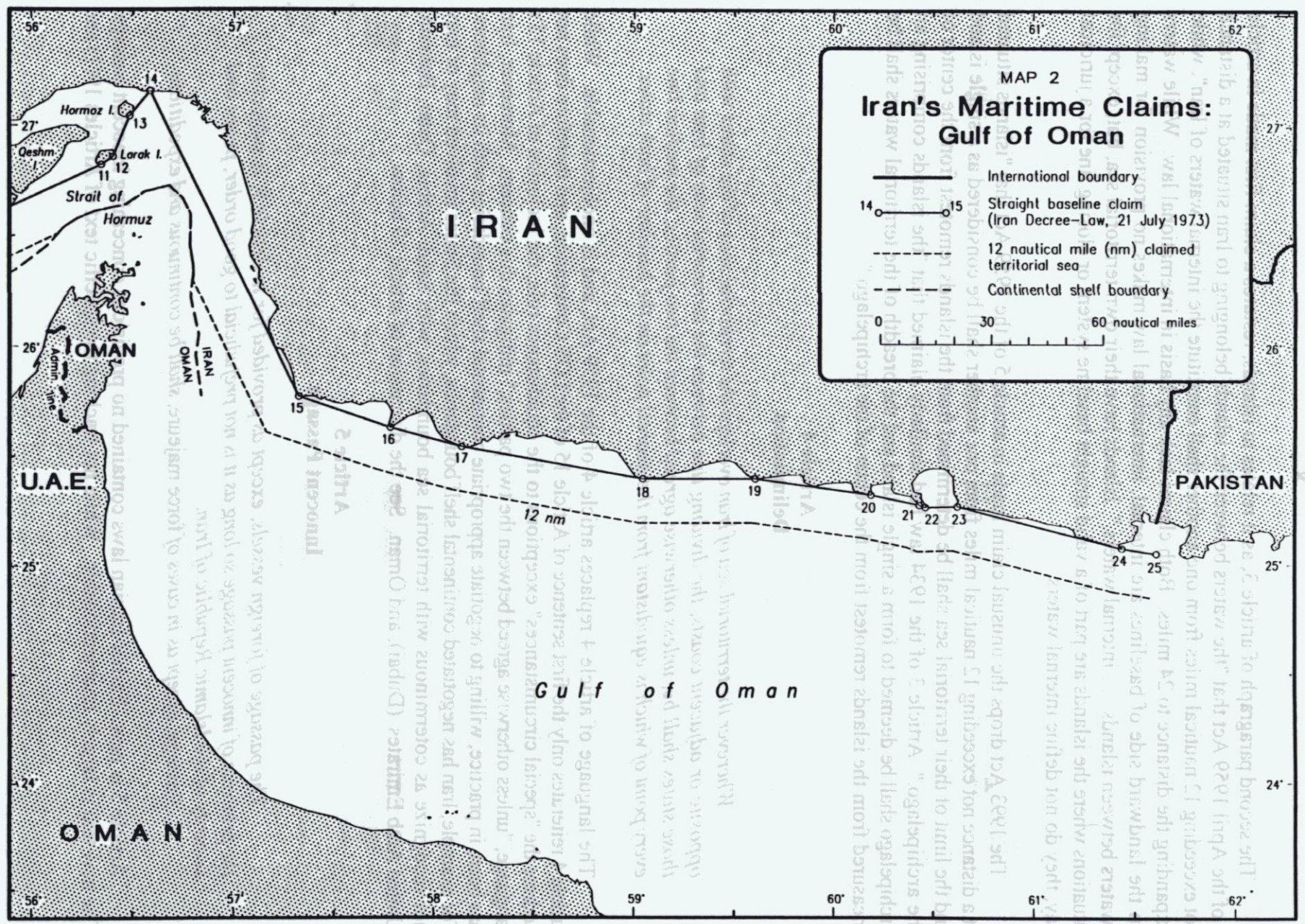

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