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THE SIGNIFICANCE OF INTERNATIONAL  
STRAITS TO SOVIET NAVAL OPERATIONS

James Paul Deaton

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Monterey, California

March 1975

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## 20. ABSTRACT

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From the investigation of the four sets of international straits, general conclusions are drawn which parallel each section of the analysis. Additional conclusions are then formulated as to the extent that international straits affect Soviet naval operations and to the extent that their influence on naval operations has shaped the Soviet legal position on the law of the sea.

The Significance of International Straits  
to  
Soviet Naval Operations

by

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requirements for the degree of

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## ABSTRACT

The Soviet Navy has developed into a major naval power. As such, it operates under certain geographical and legal constraints. This thesis concerns itself with those constraints as they relate to straits.

Four sets of international straits are examined: the Sea of Japan straits, the Danish Straits, the Turkish Straits, and the Indonesian straits. The analysis describes them physically, explains their legal regimes, discusses Soviet naval transits of the straits, relates the transits to Soviet naval missions, explores possible alternative routes to using the straits, postulates new legal regimes for the straits, and, finally, reaches conclusions concerning the Soviet reaction to the possible legal changes.

From the investigation of the four sets of international straits, general conclusions are drawn which parallel each section of the analysis. Additional conclusions are then formulated as to the extent that international straits affect Soviet naval operations and to the extent that their influence on naval operations has shaped the Soviet legal position on the law of the sea.

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## I. INTRODUCTION

### A. DEVELOPMENT OF THE SOVIET NAVY

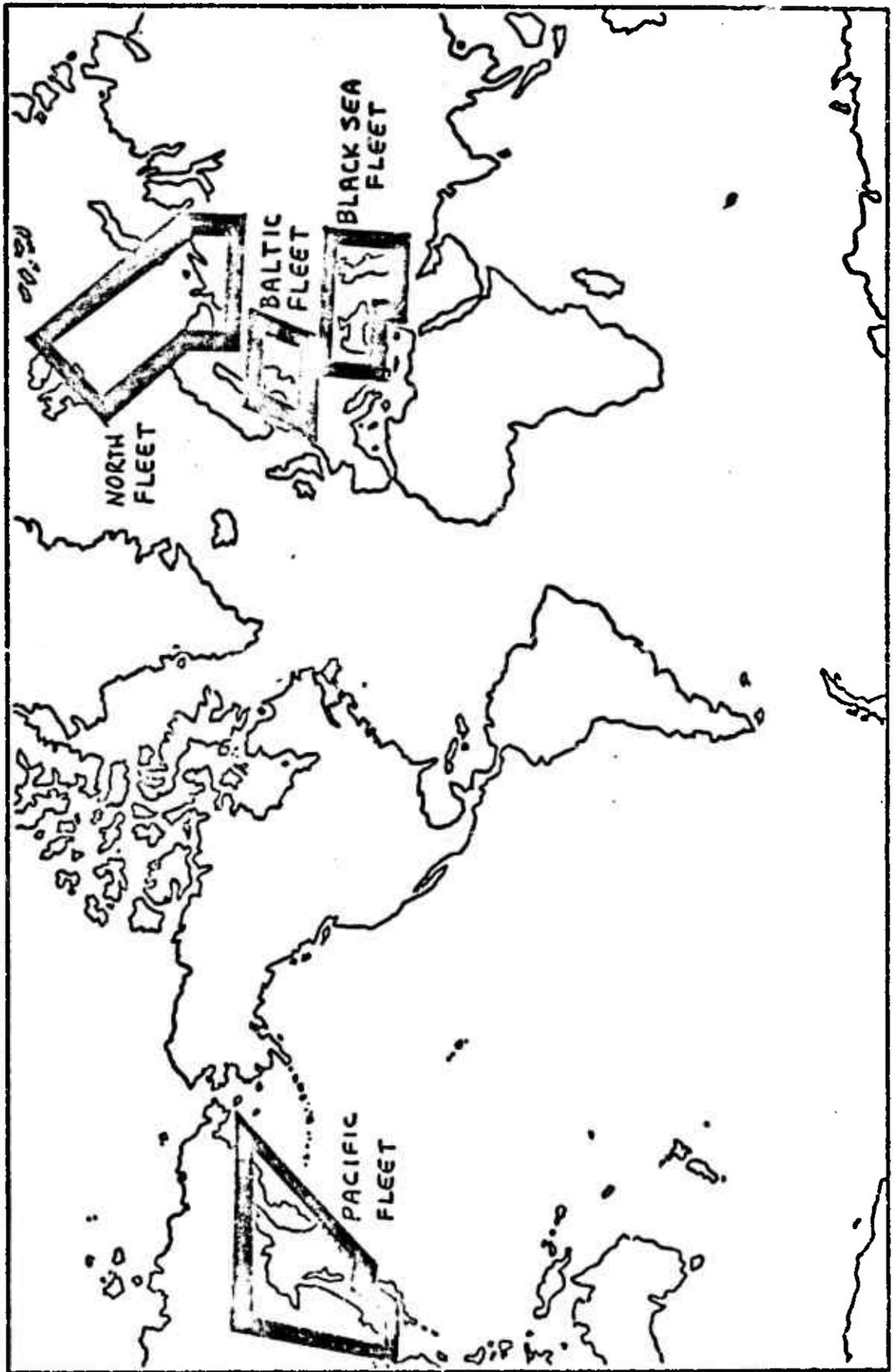
In the wake of the Russian Civil War, the 1917 Soviet Navy was in a condition which might best be described as "junk." The new Soviet government appreciated the effect of sea power during the Revolution when naval blockades prevented the Bolsheviki from receiving supplies while White Russian forces were reinforced through secure lines of ocean communications. The Government knew a navy was important for defending Soviet frontiers but it also saw that the building of a Soviet Navy would be no simple task.

The period of world peace following the Russian Revolution gave the Soviets the respite they needed to revive their lost naval power while the rest of the world powers were concluding treaties to limit the size of their naval forces. German technicians and former tsarist officers became the nucleus of the new Soviet Navy. Since industrial capabilities and technical knowledge were lacking, the Soviets relied on American, French, Italian, German, and British ship plans, salvaging sunk or damaged vessels, and construction in foreign yards to provide the ships for their new naval force.

Still, before World War II, a strong Soviet Navy was not usually considered necessary in peacetime. Though the Navy was slowly rebuilt, policy insisted that the Soviet Navy support the Soviet Army's objectives and the Navy was designed

for defense of Soviet territory in time of war. (27:370-371) The events leading up to World War II alerted the Soviet government to the possibility of conflict so that, even in a defensive role, the Soviets perceived a need to enlarge their seapower. The Japanese presence in Manchuria, the accession of Adolf Hitler, the Japanese denouncement of naval treaties, the German abrogation of the Versailles Treaty, and the Italian/Japanese/German Anti-Komintern Pact goaded Stalin into reestablishing Soviet seapower in its four traditional areas: the North Sea, the Baltic Sea, the Black Sea, and the Pacific Ocean. While Stalin was negotiating to secure battleships from the United States, Soviet seapower was beginning to be supplied by Soviet industry which, during 1938 and 1939, arrived at the stage where naval construction was possible.

The late 1930's was a critical period for the Soviet Navy. The new-school defensive policies came under attack by Stalin. Purges of the naval heirarchy left commanders who favored Stalin's concept of an ocean-going fleet. Large numbers of new warships were commissioned. A Soviet Navy Day was proclaimed for annual celebration. Wholesale promotions of high-ranking naval officers were begun and the ranks of admiral and vice admiral, abolished since 1918, were restored. The goal of the newly emerging naval policy was to build the Soviet Navy into a major sea power. (27:374) The February 3, 1938, edition of Pravda quoted P.I. Smirnov, Navy Commissar, as stating, "We need a still more powerful navy, a more



modern sea and ocean navy. So decided the party. So decided the government. The whole Soviet people so decided."

Stalin viewed large surface ships as prestige symbols which were indispensable to a powerful state which he believed the Soviet Union had become. The Soviet Navy had previously relied on small surface ships and a large submarine force but, in the late 1930's, laid the groundwork for becoming larger and stronger so as to become a powerful representative of Soviet policy. At the outbreak of World War II, the top Soviet leadership had departed from a defensive naval philosophy but the Soviet Navy was still tied to a defensive doctrine and had still not achieved status as a strong naval power.

During World War II, the Soviet Navy operated close to Soviet borders in its traditional defensive posture. Post-war Soviet publications portray the Soviet Navy as, "a brave defender of the Russian coastline, and it is a close ally of the Red army." (27:453) It is clear, then, that the Soviet Navy was still a minor consideration in Soviet military capabilities. In addition to being labeled a secondary force, to compound the miseries of Soviet naval leaders, World War II had left the Soviet Navy in poor material shape. Ships had been lost, ports and industrial facilities had been wrecked, and Soviet manpower and industry had deteriorated. Nevertheless, the postwar Soviet Union resumed naval modernization and expansion which the war had interrupted. Maritime expansion was facilitated by territorial

expansion resulting from war gains. The major gains were warm water ports in the Baltic and strategic territory in the Pacific.

Stalin's 1945 Navy Day address reaffirmed his prewar doctrine of building a large navy to represent Soviet interests abroad. Initial naval expansion was based on wartime aid from allies and ships formerly belonging to enemies. Subsequent expansion was soon supported by Soviet industry and technology. By 1950, Stalin had approved construction of a large surface fleet which was to include aircraft carriers and heavy cruisers. The death of Stalin, however, was also the death of Stalin's plan for a large Soviet Navy.

Nikita Khrushchev brought change to the Soviet Navy in the early 1950's. He was not interested in seapower. (27:476) Under Khrushchev's leadership, the Soviet Navy reverted to a defensive strategy based on submarines and gave up some foreign base rights as part of its change of posture. During this time, Admiral Sergei Gorshkov was appointed Fleet Admiral and Commander-in-Chief of the Soviet Navy.

In the mid-1950's, Khrushchev reduced military expenditures by cutting down on military manpower and mothballing naval ships. He viewed future wars as nuclear wars fought between super powers and saw no need for conventional naval weapons. The view was steadfastly maintained and, in July, 1964, he continued his policy by stating, "Ten years ago the

question was asked about the necessity to rearm our Navy ... This weapon to a great extent has become outmoded for conducting wars in modern conditions ..." (25:282) Khrushchev apparently saw no use for a navy in a peacetime role. After 1955, Soviet naval policy under Khrushchev's regime dictated the rapid development of long-range missiles and an improvement in the quality of submarines while Khrushchev threatened to scrap the navy's surface vessels.

Khrushchev may have learned a hard lesson, though, when United States' surface naval vessels performed a successful naval blockade against ships carrying Soviet missiles to Cuba in 1962. Shortly after the Cuban incident, growth of the Soviet Navy was observed. Because of the long process required to produce an operational ship, Cuba was probably not the only experience which spurred the growth of the Soviet Navy and a change to Khrushchev's policy but the bitter Soviet experience in Cuba certainly must have been convincing.

The Soviet submarine force has experienced a major decline in number of units. The reason is the decommissioning of large numbers of obsolete conventional submarines. They have been replaced by fewer but newer types of submarines which have greater capabilities. The force has achieved nuclear propulsion and is capable of attack by long-range-strategic missiles, cruise missiles, and torpedoes. Even though the Soviet submarine force has decreased in numbers, it is still larger than the force of its chief competitor, the United States Navy. (2:42)

The Soviet surface force has not changed greatly in numbers but tonnage has diminished. This indicates a change to construction of smaller ships but, like the submarine force, the Soviet surface navy is more capable than the pre-Cuba force. A large portion of the surface force is relatively new and newer weapons give it greater firepower than its predecessor. This can be attributed to the development of shipboard missile systems. (2:6-8) A picture of future developments might be indicated by the construction of two large antisubmarine cruisers and what appears to be an aircraft carrier.

Probably the two most significant events which contributed to the capability of the Soviet Navy were the deployment of the Yankee-class submarine in 1968, which gave the Soviets a direct naval threat against the continental United States, and the deployment of large numbers of cruise missiles, which gave Soviet ships an anti-surface-ship capability and allowed them to challenge United States naval ships on the high seas and in regions of traditional Western naval domination such as the Mediterranean Sea.

Evidence of the newfound importance of the Soviet Navy is seen in the patterns of Soviet naval operations. Soviet naval ship visits outside the Black and Baltic Seas were rare before 1957 and, until that time, exercises were limited to the Black, Baltic, and Barents Seas. (2:12) In 1964, the Soviet Navy began a continuous deployment in the Mediterranean Sea which grew into a major presence by 1967.

Soviet naval ships commenced a regular deployment to the Indian Ocean in 1968. Surface warships began sorties into the Pacific Ocean in 1963, the Caribbean in 1969, and the West African coast in 1970. In 1970, the Soviet Navy held its first exercise of global dimensions. (2:12-15) Expanded naval activity must have meant that the Soviet leadership realized a peacetime mission for the Soviet Navy.

Additional evidence of the ascension of the Soviet Navy's fortune is that the Commander-in-Chief of the Soviet Navy, the same Admiral Gorshkov appointed by Khrushchev, is also a Deputy Minister of Defense and a member of the Central Committee of the Communist Party. Admiral Gorshkov might as well have quoted Stalin when Gorshkov wrote, "Every social-economic system has built up armed forces, including navies, commensurate with its economic and technical capabilities." (13:100/1/851:23)

The world is waking to the fact that the Soviet Navy is now an important force for supporting Soviet policies. The strike capability of the Soviet strategic submarine force was announced in United States newspapers on 4 October 1974 under the byline, "Russian Missiles Travel 4,900 miles." On 29 August 1974, newspapers had reported, "Jane's Sees Red Fleet Growing as West Lags." Whether the United States Navy or the Soviet Navy is now the world's strongest naval power is not clear but is a matter for conjecture. Whether in first place or in second place, the Soviet Navy has clearly developed into a powerful force in support of the objectives of the Soviet government.

The Soviet Navy is credited with a variety of capabilities. A general list of probable missions would include strategic offense, strategic defense, support of foreign policy objectives, projection of land and air power overseas, interdiction of sea lanes of communication, and sustained combat at sea. (2:15-31) The Soviet Navy has grown, as the Soviet nation has grown, from "primitive" beginnings, through times of war and times of policy conflict, to become a contending force in the arena of world powers.

#### B. DEVELOPMENT OF THE LAW OF THE SEA

The law of the sea is of particular importance to any nation which has an interest in seapower because it affects a navy's access to the world's sea lanes which are vital to the effective functioning of a nation's navy. The formation of sea law, then, will be of importance to the Soviet Union because the Soviet Navy has become an agent which represents Soviet governmental policy in areas remote from Soviet borders.

Modern debate on the law of the sea began in the seventeenth century. In 1609, Hugo Grotius, a Dutch jurist, argued that the sea was open to all nations. His argument developed the concept of freedom of the high seas. Freedom of the seas means freedom to use the seas without regulation by coastal state jurisdiction. Any use of the seas was permitted so long as a ship's use of seaspace did not interfere with other ships' rights to use the seas.

The rebuttal to Grotius' argument came from John Selden, a British jurist, who wrote, in 1635, to support the concept of closed seas. Selden argued, in effect, the position of the Spanish and the Portuguese whose intent had been to divide the world's oceans between them. The concept of closed seas divided sovereignty over ocean space among the nations of the world.

Grotius' concept of open seas became ocean law. The victory of the open seas policy was nearly predestined because the law of the sea was heavily influenced by the nation whose seapower was strong enough to dictate ocean policy. The law of the sea was traditional and unwritten. The world's strongest seafaring nation was England and, while England ruled the world's oceans, England promoted the concept of freedom of the high seas. Her reason for supporting high seas freedoms was obviously to ensure that her ships would be granted the right to range over the seas to any location where England might derive some benefit or desire to exert some influence.

Freedom of the high seas became traditional international law. The only exception to high seas freedom was the reserved status of internal and territorial waters. Both were waters which were controllable by a nation either because the waters were within national boundaries, in the case of internal waters, or, reputedly, within canon-shot range of a nation's coastline, in the case of territorial waters. Restrictions to the use of these waters still left

most of the seas open for ship transits. An important possible exception to high seas freedoms was narrow straits which were overlapped by the territorial waters of one or two nations and whose use could be regulated by a coastal state or coastal states strong enough to do so. Conversely, these straits could be transited by a navy strong enough to do so. Some important narrow straits became the subject of multilateral agreements which regulated their regimes and which evolved into traditional international law. The usual status, though, was that ships were permitted "innocent passage" through international straits. This meant that ships of one nation were permitted to pass through the territorial waters of another nation so long as the ship's transit was not damaging to the peace and security of the coastal nation.

After World War II, the concept of freedom of the high seas came to be questioned. The reason for a change in reasoning was the advancement of technology. Previously, the oceans had been a highway for ships. New technology created new uses for the oceans. Oil could be retrieved from beneath the ocean floor. Minerals could be mined from the seabed. Fish could be taken in record numbers. All these made the seas more valuable to the coastal nations than when the seas were no more than highways. Some nations became interested in preserving the resources of their adjacent seas and seabeds for their own use and other nations

which had the required technology became interested in exploiting wide ocean expanses.

The first important modern move to restrict ocean use was made in 1945 by the United States. President Harry S. Truman announced a national doctrine proclaiming an extension of national control over, "... the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States..." (12:7) (Appendix A) The following thirty years has seen claims of up to 200 miles for territorial seas and a great variance of national claims depending on national interest.

Attempts have been made to establish an internationally accepted law for the sea. The United Nations sponsored an international conference which, in 1958, resulted in four treaties for regulating oceans: Convention on the Continental Shelf, Convention on the Territorial Sea and the Contiguous Zone (Appendix B), Convention on the High Seas (Appendix C), and Convention on Fishing and Conservation of the Living Resources of the High Seas. These four conventions were the first attempt at a written general law of the sea. They codified the points of law on which agreement was easy but left difficult problems such as width of territorial seas, archipelagos, international straits, and seabed jurisdiction either unanswered or partially answered.

The race for control of oceans created differences in national legal interpretations and national legal desires.

Some nations wanted narrow territorial seas while others wanted wide. Some nations wanted free passage of international straits while other nations wanted control over straits in their territorial waters. Differences of opinion existed over whether the seabed should be controlled and who should control it. National interests have created many different legal positions depending on a nation's capability to exploit the oceans and its interest in naval power and in maritime commerce. To settle these national differences, a conference to determine a new law of the sea was convened under United Nations sponsorship in June, 1974. The first substantive meeting, at Caracas, Venezuela, produced no consensus. The second session of the Third Law of the Sea Conference will convene at Geneva, Switzerland, in March, 1975. Consensus will probably be difficult to reach at that conference also. The future of the law of the sea is pending.

### C. CONFLICT

The development of the Soviet Navy, the development of the law of the sea, and Soviet government policies for naval employment are in natural conflict. "... the Russian Navy supports traditional legal freedoms of the high seas, so as to give her ships the greatest access to the world's oceans." (21:52) Contrary to these aims, ocean law has tended to become more restrictive to ocean freedoms.

Naval geography is the reason for Soviet concern with ocean freedoms. The Soviet Navy appears to be constrained

by straits through which her ships must pass to reach many of their operating areas and, in many cases, to reach open oceans. The Baltic Fleet and the Black Sea Fleet are completely bottled in by narrow waterways. The Pacific Fleet's warm water ports are all in locations from which access to open oceans is controlled by narrow waterways. The North Fleet is in the most advantageous position but is still required to pass through the Greenland-Iceland-United Kingdom Gap for access to the Atlantic Ocean.

Considering the restrictions of naval geography, it is easy to understand why Soviet naval objectives might be hampered by changes to the law of the sea which could create a regime which might threaten the Soviet Navy's access to its operating areas. The conflict, then, can be seen to affect the Soviet Navy mostly in the question of passage of international straits. (See Appendix D) The Soviet answer to the strait problem was presented in their Draft Articles on Straits Used for International Navigation. (Appendix E) The articles state:

In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for the purpose of transit through such straits, as they have on the high seas. (38:40)

The task of this paper will be to explore the conflict between Soviet naval operations and the regimes of international straits to determine the extent to which straits might affect naval operations.

#### D. CONFLICT ANALYSIS

To examine the extent to which international straits might affect Soviet naval operations, specific areas of the greatest significance should first be selected for individual evaluation. The significant straits would be those for which control by coastal nations would be possible. (See Appendix J) These straits would be among the 16 major straits of at least 116 straits which would be overlapped by territorial seas if the accepted breadth of territorial seas were established at 12 miles. (42:27) From those sixteen straits, the scope of investigation should be narrowed to those straits which fall on the major routes used by Soviet naval ships. This paper considers those to be the Danish Straits, the Turkish Straits, the Sea of Japan straits, and the Indonesian straits.

The procedure for analysis will be to describe each set of straits physically and describe the legal regime which applies to it. Then the use the Soviet Navy makes of each strait will be determined so that the strait transits may be related to Soviet naval missions. Soviet naval missions are all considered to fall into the categories of strategic, defense of homeland, naval presence, and protection of economic interest. The next step in analysis is to discover alternate routes the Soviet Navy might use to accomplish the same missions, thereby assessing the inconvenience to the Soviet Navy if straits were not available for transit. Then possible new regimes for the straits are discussed to determine

whether transits of Soviet naval ships might be interrupted. Lastly, the effects of present and possible new regimes for straits are used as the basis for discussing the proposed Soviet reaction to the changed regime of a strait.

From the analysis of the four sets of straits, an assessment of the effect of international straits on Soviet naval operations will be made in order to examine the hypothesis that the legal status of certain international straits significantly affects Soviet naval operations and the hypothesis that the Soviet position on the proper legal status for international straits reflects a Soviet interest in protecting naval rights of passage.

## II. THE SEA OF JAPAN STRAITS

### A. DESCRIPTION

Three straits are suitable for navigation of ships traveling into or exiting from the Sea of Japan. The navigable straits are Korea Strait, Tsugaru Strait, and La Perouse Strait. A fourth waterway exists but it is not suitable for passage of larger ships. It separates Honshu and Kyushu, then splits to run north and south of Shikoku. The passage narrows to about a half mile between Honshu and Kyushu making it a dangerous and impractical route for shipping because of its physical dimensions and because other more practical and more convenient sea lanes are available for ships transiting from Soviet ports to the open ocean. The sea lane between Honshu and Kyushu is entirely within Japanese territorial waters. This chapter will consider the three navigable straits.

#### 1. Korea Strait

The Korea Strait connects the Sea of Japan and the East China Sea between the south coast of Korea and southwest Japan (Kyushu). About 110 miles separate the two coasts but the span is interrupted by two Japanese islands, Tsushima and Iki Shima, which divide the channel to form two main shipping channels. The name "Korea Strait" sometimes is used to refer only to the western channel between Tsushima and the coast of Korea. The western channel is 26 miles

wide and is of sufficient depth to allow the passage of deep draft vessels. The eastern channel, sometimes called the Tsushima Strait, stretches 25 miles from Tsushima Island to Iki Shima, which is the westernmost of the islands lying off the western coast of Kyushu. The Tsushima Strait is also suitable for passage of deep-draft vessels.

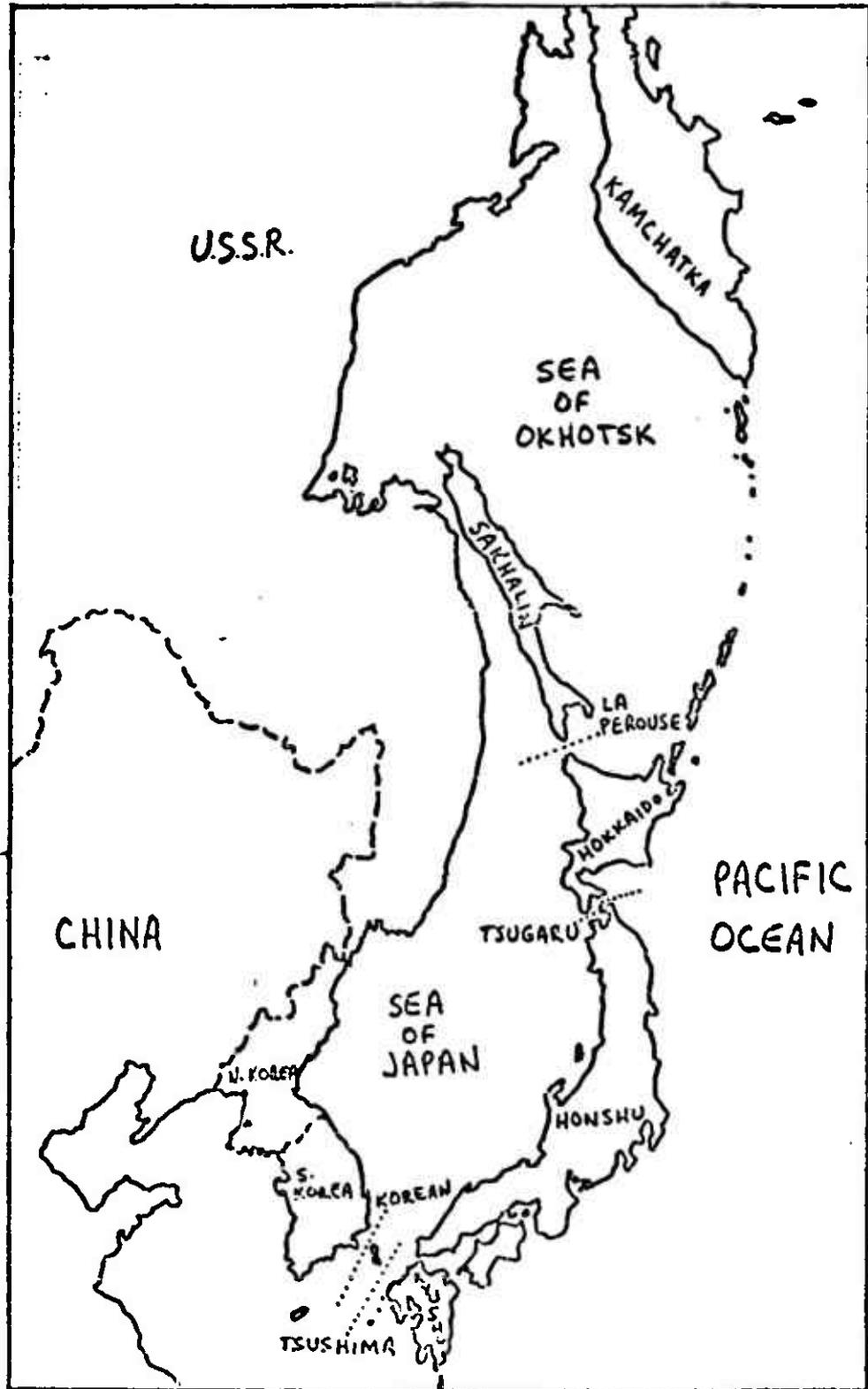
## 2. Tsugaru Strait

Tsugaru Strait separates the Japanese Islands of Honshu and Hokkaido. It connects the Sea of Japan with the Pacific Ocean. The Strait is about 38 miles long between the narrows at its entrance and exit, 10.5 miles in breadth at its narrowest point, and 240 feet deep at its shallowest location. At its eastern gate to the Pacific Ocean, the current sometimes flows up to 7 knots in an easterly direction. Tsugaru is the northernmost strait through the Japanese islands which remains unfrozen in winter.

## 3. LaPerouse Strait

LaPerouse Strait connects the Sea of Japan and the Sea of Okhotsk. It lies between Sakhalin, a Soviet possession, and Hokkaido, a Japanese possession. The Strait is 23 miles wide and has a limiting depth of 90 feet in the navigable parts of the channel with one well-marked shoal area 9 miles southeast of the southern tip of Sakhalin. LaPerouse is frozen over in winter.

THE SEA OF JAPAN STRAITS



## B. REGIME OF THE SEA OF JAPAN STRAITS

No special international agreements regulate the regime of the straits providing access to the Sea of Japan. The only regulatory mechanisms are those provided by international law and by unilateral claims.

The Korea Strait is bordered by Korea and Japan which both claim a three mile limit to territorial waters. Under international law, both sections of the Strait have large, navigable breadths which are part of the high seas so that complete freedom of navigation and overflight should be granted. The only exception to the possibility of high seas freedom is the unilateral Korean claim of the "Rhee Line" within which the Korean government declared that it exercises control over navigation of shipping and overflight. (1:46) The line passes about four miles to the west of Tsushima in the Strait's western channel which means that, if the "Rhee Line" is respected, a one-mile channel exists in the western section of the Korea Strait in which high seas freedoms exist. The eastern channel provides a breadth of 19 miles in which all ships and aircraft enjoy high seas freedom.

The Tsugaru Strait is bounded on both shores by Japanese islands so that the limit to territorial waters is, again, three miles on both extremes of the breadth of the Strait. Tsugaru also provides a shipping lane of high seas freedoms which constricts to a little more than five miles at its narrowest point.

LaPerouse Strait lies between the Soviet Union and Japan. While the Japanese government claims only a three mile territorial sea on the southern extreme, the Soviets claim a twelve mile territorial sea to the north. These claims leave a channel of high seas which is 8-1/2 miles at its narrowest point.

Under their present regimes, the three major straits which provide access to and from the Sea of Japan may all be traversed without submission to regulation by any ship of any nation because channels are present through all the straits where the waters are classified as "high seas." The regime of the high seas permits freedom of use by merchant ships, warships, and aircraft with regulation of a vessel's activity only by its flag State and rules-of-the-road. The territorial waters bordering the landward portions of the straits would be governed by the rules of innocent passage which would still allow transit of merchant and military ships.

In 1951, at the San Francisco conference which convened to draw up a peace treaty with Japan, the Soviet Union proposed that the Sea of Japan should be classified as a "closed sea" so that, while its straits would remain open for the passage of all merchant ships, the straits would be closed to the warships of all nations except those of the Sea of Japan coastal States. The proposal was not adopted.

### C. SOVIET NAVAL TRANSITS

All three straits are important for the transit of Soviet naval ships. The bulk of the Soviet Navy ships assigned Pacific home ports are stationed at bases in the Sea of Japan. (27:484) The exceptions are ballistic-missile-firing submarines which are based at Petropavlovsk on the Kamchatka Peninsula. The submarines are stationed there so that they will not be required to transit straits when proceeding to station. The problems with the northern ports are ice in the winter and difficult logistic lines. Because of the icing conditions, other Pacific Fleet ships are homeported in southern locations which are located on the Sea of Japan. Passage through the Sea of Japan straits is necessary for those ships to deploy and return to Pacific bases.

The Korea Strait is used by ships deploying to the Indian Ocean, the Philippine Sea, the South China Sea, and the South Pacific. Tsugaru Strait is most convenient for ships proceeding to mid-Pacific. LaPerouse Strait is used by ships operating in the Arctic or which used Arctic waters to change home ports between the North Fleet and the Pacific Fleet.

### D. SOVIET NAVAL TRANSITS RELATED TO SOVIET NAVAL MISSIONS

#### 1. Strategic Mission

The ships required to transit the Sea of Japan straits do not have a strategic mission. Because submarines

are easy to detect when passing through straits, Soviet ballistic-missile-firing submarines are based in Petropavlovsk on the Kamchatka Peninsula. From Petropavlovsk, the submarines have immediate access to the open seas of the Pacific Ocean. If the submarines were based at Sea of Japan ports, they would have less problems with ice in winter and logistic support would be simpler. Nevertheless, Petropavlovsk is closer to the west coast of the United States and the submarines can proceed to their patrol areas without any requirement to transit on the surface or to facilitate detection by passing through straits. The Soviet Navy has obviously determined that the advantages of basing strategic submarines at Petropavlovsk outweigh the advantages of basing them in Sea of Japan ports. The straits providing access to the Sea of Japan are, therefore, not relevant to the Soviet Navy's strategic mission.

## 2. Defense of the Homeland

Defense of the Soviet homeland is an important mission of Soviet naval ships transiting the Sea of Japan straits. Soviet naval surface ships and submarines can transit Tsugaru Strait to intercept United States surface ships and submarines approaching launch range to the Soviet Union. Transit of the Korea Strait is most convenient to defend against a possible sea attack by ships from west Asian or South Pacific nations. The Korea Strait is also useful to Soviet ships, and especially attack submarines, transiting to the Indian Ocean where they could be on station to

blunt an attack against Soviet territory by United States ballistic-missile-firing submarines.

Within the confines of the Sea of Japan, a defensive Soviet naval force is of little value. By the time an enemy approaches the shores of the Soviet Union, the winner of the war will have already been determined because a sophisticated enemy can launch powerful weapons at the Soviet Union from outside the Sea of Japan. An unsophisticated enemy would not have a chance against Soviet military power so that any aggressive action would be of a harrassing nature and not designed as an attack on Soviet territory in which an unsophisticated nation could never expect to be successful. The Soviet Union must have the capability to deploy out of the Sea of Japan in order to prevent the possibility of long range attacks against its territory so, in order to accomplish its mission of defending the Soviet homeland, the Soviet Navy's ships must be allowed to transit the straits leading out of the Sea of Japan.

### 3. Naval Presence

Any naval forces supplied by the Pacific Fleet which contribute to Soviet naval presence must transit the Sea of Japan straits. The strategic forces based at Petropavlovsk cannot contribute to naval presence because those forces must stay "invisible" in order to accomplish their strategic mission. The remaining ships which are able to contribute to naval presence are based in Sea of Japan ports. Pacific Fleet ships contribute to naval presence throughout the

Pacific Ocean area and in the Indian Ocean. Naval presence in the Pacific area is not constant but is limited to major exercises, scientific expeditions, tests of military systems, and surveillance. In the Indian Ocean area, though, naval presence is constant and is nearly totally supplied by ships from the Pacific Fleet. To support the mission of naval presence, Soviet naval ships most conveniently could transit the Tsugaru Strait or the Korea Strait with the Korea Strait being most important because of normal traffic patterns.

#### 4. Protection of Economic Interests

While the East Asian area of the Soviet Union is not one of the most important industrial areas, commerce must be maintained to that area in order to support the area's population and existing industry (including naval shipbuilding), and to permit military logistics in support of the Soviet Pacific Fleet. Two methods are available for communicating with the eastern part of the Soviet Union. Either the Siberian railroad may be used to carry materials over land through Soviet territory or sea routes may be used.

LaPerouse Strait is the route used by ships carrying commerce from the northern industrial area of the Soviet Union. The route originates in the White and Barents Seas, traverses the Arctic Ocean near the northern coast of the Soviet Union, passes through the Bering Strait, and proceeds to Sea of Okhotsk ports and through the LaPerouse Strait to Sea of Japan Ports. Included in the military

logistic use of the LaPerouse Strait is transit of Soviet naval ships changing home ports between the North Fleet and the Pacific Fleet. (39:94)

Tsugaru Strait is of limited use for commerce. It is a good route between Canadian and United States ports and Sea of Japan ports and could be used interchangeably with LaPerouse Strait if traffic were halted in one of the two straits. Since most commerce comes from the south, except for commerce transiting the Arctic Ocean or coming from North America, Tsugaru Strait could expect relatively minimal use and commerce could easily be routed, instead, through LaPerouse Strait or the Korea Strait into the Sea of Japan.

The Korea Strait is the route most convenient to commerce between Sea of Japan ports and the majority of the Soviet trading partners. (43:777) Ships proceeding to or coming from a southerly direction have no better alternative route. While the necessity for such trade is probably limited, commerce between East Asian, South Pacific, and Indian Ocean ports and Soviet ports in the Sea of Japan should require transport through the Korea Strait.

Because the single alternative to transportation of large quantities of materials to the eastern section of the Soviet Union by sea is the fragile link provided by the Trans-Siberian railroad, the sea lanes into the Sea of Japan are important to the economy of that area. It is important,

therefore, that the Soviet Navy be available to ensure unimpeded passage of ships through the Sea of Japan straits for purposes of commerce and military logistics.

#### E. ALTERNATIVE ROUTES

There are no alternative routes for ships to enter or exit the Sea of Japan other than by using the Sea of Japan straits. Though logistics could be maintained by using overland routes and strategic deterrence would be uninterrupted because strategic submarines have immediate access to open ocean, if the Sea of Japan straits were closed, Soviet naval presence outside the Sea of Japan and defense of the Soviet homeland would have to be provided by ships home ported outside the Sea of Japan or Pacific Fleet ships could be home ported on the Kamchatka Peninsula.

If Pacific Fleet ships were home ported on the Kamchatka Peninsula, they would suffer the disadvantages of winter icing, fragile lines of logistics, and extended distances to South Pacific and Indian Ocean operating areas. The Soviet Union would not only have worse operating ports, they would also have increased naval requirements because a Sea of Japan squadron would be required when the Soviet Pacific Fleet would no longer be available to do double duty in the Sea of Japan and Pacific areas.

If ships from other Soviet fleets assumed the responsibilities of Pacific Fleet ships, the alternative would prove even more difficult. The additional duties would be taxing to the asset utilization of the selected fleet. If

the fleet chosen were the North Fleet, the Arctic route would limit operations in the Pacific Ocean because it is only open 130 to 150 days each year. In any case, ships from other fleets would have a longer journey to Pacific Ocean or Indian Ocean operating areas than ships from the Pacific Fleet.

No alternative method of accomplishing the missions of the Pacific Fleet is as satisfactory as the present method whereby the Pacific Fleet, based in the Sea of Japan, transits to its operating areas through the Sea of Japan straits.

#### F. POSSIBLE REGIMES FOR THE SEA OF JAPAN STRAITS

Important changes to restrict the regime of any Sea of Japan strait could be made either by an international body formed for that purpose or by Japan which borders on all the Sea of Japan straits. A strong Japanese nation could completely block any ship attempting to pass through the straits as it did successfully during World War II. Japan is a maritime nation, though, and depends on sea transport for importation of raw materials. Because of its reliance on sea transport, Japan has taken a conservative position concerning sea law and has declared only a three mile territorial sea. The sea lanes are too vital to Japan for a larger territorial sea claim which might be cited as a precedent by some other nation as justification for claiming a wider territorial sea to the detriment of Japanese commerce. The probability that Japan will restrict traffic through the

Sea of Japan straits in peacetime is so small as to be unworthy of consideration. The result is that, if left to the design of the Japanese government, LaPerouse, Tsugaru, and the Korea Straits will all be blessed with channels of "high seas" waters which will permit free transit of merchantmen and warships of any nation.

The remaining possibility for a change to the regime of the Sea of Japan straits is that an international agreement might be made which could restrict navigation in the straits. This would be a result of the on-going law-of-the-sea conference sponsored by the United Nations. The most probable result, if any agreement is reached, is that the conference will arrive at a twelve mile limit to territorial waters. (32:13) If this is so, and if Japan ratifies the treaty, the status of the Sea of Japan straits would change in that LaPerouse Strait would be overlapped by territorial waters, Tsugaru Strait would be overlapped by territorial waters, and only a one-mile span of high seas waters would remain in the Tsushima section of the Korea Strait. The result of overlapping territorial waters would be that, in accordance with current international law, innocent passage would be the only status allowed for ships transiting those waters.

The right of innocent passage means that ships are permitted to pass through a territorial sea without entering a state's internal waters, to proceed to internal waters, or to make for high seas from internal waters. Ships may stop and anchor but only if it is incidental to ordinary

navigation or necessitated by distress.\* The passage must not prejudice the peace, good order, or security of the coastal state and must be in accordance with international law. Submarines are required to transit the territorial sea on the surface and to show their flags. The rules of innocent passage do not make allowance for overflight of aircraft which means that permission of a coastal state must be obtained before a nation may operate aircraft over another nation's territorial waters. (Appendix B)

Although it would not change the actual status of the straits, the regime of the Sea of Japan could be changed if Soviet influence could cause a change in the status of the sea so that it could be considered a closed sea. In that situation, the provisions of international law would apply to Sea of Japan nations and to merchant ships from nations external to the Sea of Japan. Warships from nations outside the Sea of Japan would be prohibited from entering. This change is not likely because it has been resisted consistently by non-communist nations and the probable resultant domination of the Sea of Japan by Soviet seapower would be contrary to the national interest of Japan so that the arrangement would be resisted by the Japanese government which has not been interested in any restriction to freedom of navigation at sea.

## G. SOVIET REACTION

Extending territorial seas to twelve miles would have little effect on the missions of the Soviet Navy. Japan prefers a three mile territorial sea but would be willing to support a twelve mile territorial sea for sake of agreement. (41:81) The northern half of LaPerouse Strait is already claimed as the territorial waters of the Soviet Union and a one-mile span of high seas would still exist in the Korean (Tsushima) Strait. Through those two straits, the Soviet Navy would still have unrestricted rights of operating in the high seas or Soviet territorial sea areas. Tsugaru Strait would be overlapped by Japanese territorial waters but Soviet warships would still have the right of innocent passage through the Strait. Japan supports a regime which would "... provide ships in international straits with a limited but unambiguous right of transit which would protect them from highly restrictive or arbitrary control by coastal states." (41:80-81)

The Soviet Navy could certainly be expected to resist an effort to bar passage of Soviet ships through the Sea of Japan straits but the likely changes to the straits' regimes would not be of sufficient detriment to the Soviet Navy to cause any opposing reaction. The Soviet Navy would adapt its policies to the new regimes and with no effect on its operations.

### III. THE DANISH STRAITS

#### A. DESCRIPTION

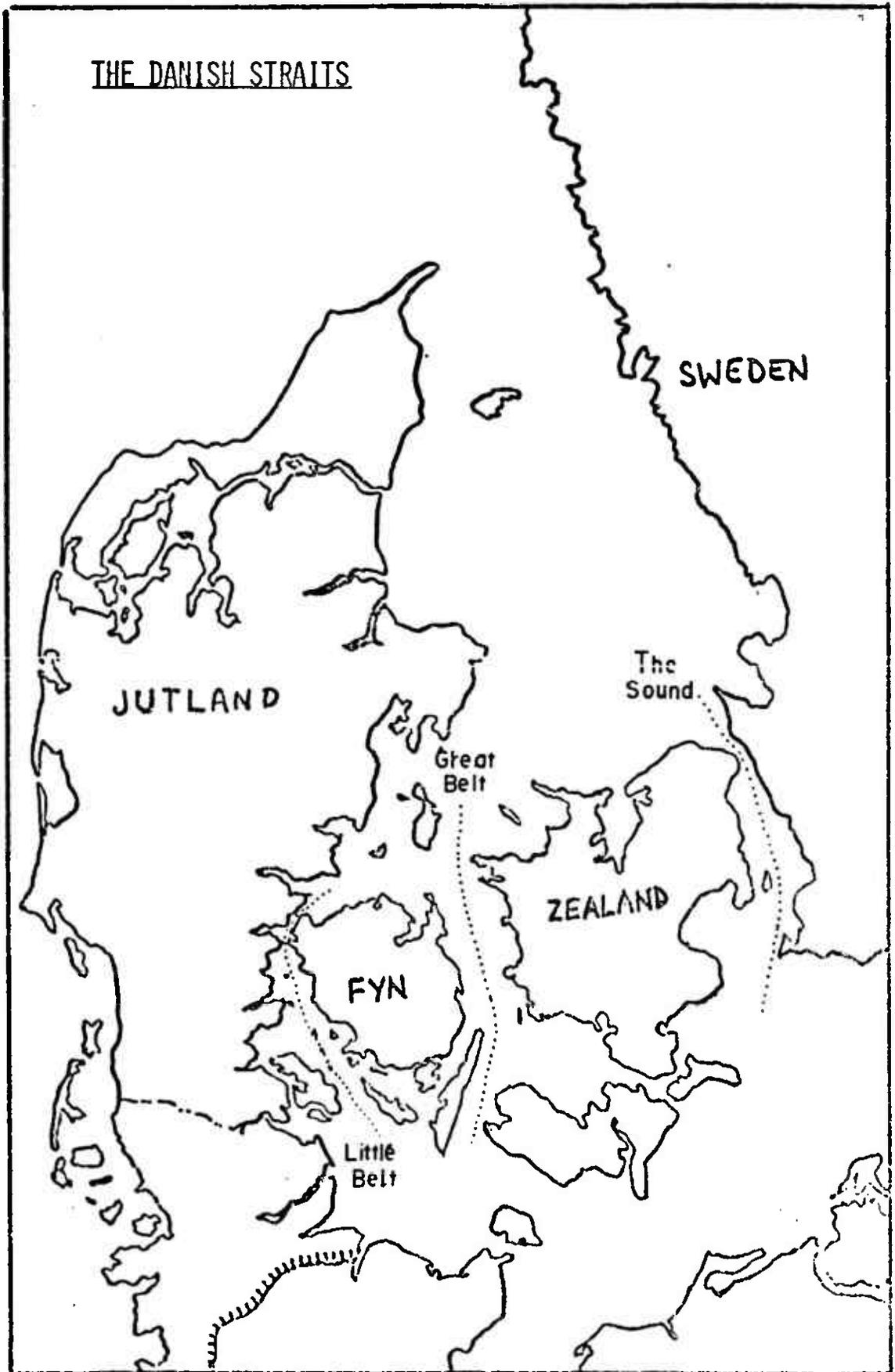
The Danish Straits are three shipping passages between Denmark and Sweden. They connect the Baltic Sea with the Kattegat which leads to the Skaggerak, the North Sea, and the Atlantic Ocean. The three passages are Little Belt, Great Belt, and The Sound (Oresund).

Little Belt is the westernmost channel. It is bordered by Jutland and Als Island to the west while Fyn and Aero Islands lie to the East. The channel is thirty miles long and varies from one-half to twenty miles in width. Minimum depth of the Little Belt passage is fifty feet.

Great Belt is the center channel consisting of Samsø and Langeland Belts. It is bounded on the west by Fyn and Langeland Islands and on the east by Zealand and Lolland Islands. The forty mile channel is about ten miles wide. The channel depth is 215 feet in the south and varies from 65 to 80 feet in the north.

The Sound, also known as Oresund, is the easternmost of the three channels. It separates Zealand Island (Denmark) on the west from the coast of Sweden on the eastern bank. The length of the channel is eighty-seven miles. Its average width is seventeen miles but it narrows to 2-1/2 miles between Helsingør and Helsingborg. On the average, the Sound is the deepest channel in the Danish Straits.

THE DANISH STRAITS



Nevertheless, it has shoals as shallow as twenty-three feet. By conforming to the shipping channel, small submarines could transit The Sound submerged.

The Danish Straits are relatively shallow. The Great Belt is most suitable for navigation but, even there, only a few channels are available for the passage of large merchant vessels and warships. The Little Belt is quite unsuitable for the passage of large ships.

#### B. REGIME OF THE DANISH STRAITS

As far back as the tenth century, the shores of all three channels of the Danish Straits belonged to the Kingdom of Denmark. Denmark unilaterally controlled passages through the straits and collected tolls from transiting ships. The Baltic states were in a constant state of unrest over restrictions to the passage of their ships and attempted to force changes to the regime.

In 1658, Sweden won the eastern shore of The Sound and established her present boundary in the strait area. Sweden secured free passage for her ships by force. Continued pressure and negotiations by Baltic States forced changes in the eighteenth, nineteenth, and twentieth centuries which considerably modified the legal position of the Danish Straits.

The current regime of the Danish Straits is regulated by the Treaty of Copenhagen which was agreed to in 1857 and is still in force. (1:135) For monetary consideration, Denmark agreed to abolish all tolls and permit duty-free

movement of ships of all nations through the straits. But the Treaty of Copenhagen settled the problems of merchant shipping through the straits, it did not deal with passage of warships. In fact there was no practical limitation on the passage of warships until 1951. Before 1951, the price for warships to transit the straits was friendship with the Danish State or overwhelming naval power. The only attempts at preventing foreign warships from transiting the Danish Straits were treaties among certain Baltic States in 1658, 1759, 1781, 1800, and 1920 which declared the Baltic Sea to be a closed sea and which would prevent warships of non-Baltic nations from exercising freedom of navigation in the Baltic enclosure. The closed sea concept of the Baltic Sea is not recognized in current international law.

In 1951 a Royal Edict was handed down in Denmark which established the policy for presence of foreign warships and military aircraft in Danish territory during peacetime.

(Appendix F) The following restrictions were imposed:

Little Belt - notification through diplomatic channels eight days in advance of proposed passage.

Great Belt - free passage except that notification must be given through diplomatic channels eight days in advance if presence in the straits will exceed 48 hours and that permission must be obtained from Danish authorities through diplomatic channels if more than three warships of the same nationality expect to be in the same area of the straits

simultaneously or if any number of ships expect to be in the straits more than four days.

The Sound - navigation in Danish waters is regulated the same as Great Belt with the additional restriction that notification through diplomatic channels must be given eight days in advance of passage through Copenhagen Roads. Free passage is granted in Swedish waters as long as ships do not stop or drop anchor. (See Appendix G)

Submarines must transit any of the three channels surfaced and with their naval flags showing.

NATO members, during joint military maneuvers, are regulated on a case-by-case basis by the Danish Ministry of Defense according to the nature and purpose of the maneuvers.

#### C. SOVIET NAVAL TRANSITS

The Soviet Navy uses the Danish Straits for the transit of naval warships and submarines from the Baltic Sea to the Atlantic Ocean. These ships are units of the Soviet Baltic Sea Fleet which mainly consists of diesel submarines, anti-submarine warfare ships, amphibious ships, and mine warfare ships. (25:131-135)

The regime of the Danish Straits has been a factor in determining the composition and the deployment of the Baltic Sea Fleet. The Baltic Fleet has a short-range mission because of the navigational restrictions imposed on warships transiting the straits and because of the proximity of the Northern Fleet. The limitation to surface ship transits and

the requirement that submarines transit the straits on the surface, as well as the fact that the North Sea port of Murmansk is the Soviet Union's only port which remains ice-free year round, have caused the Soviet Navy to station its main offensive Atlantic deploying ships in the Murmansk area (North Fleet) while it has decreased both the size and mission of its Baltic Sea Fleet.

The Baltic Fleet is now limited to the types of ships and submarines required for operations in the immediate vicinity of the Baltic Sea. Ships from the Baltic may venture into the North Sea and the northern Atlantic Ocean but the deployment would probably be for accomplishing a Baltic related mission. The types of ships in the Baltic Fleet indicate that they would be used for missions along the coast of the Baltic littoral with possible use along the North Sea and Norwegian Sea coastlines, especially for amphibious forces, if Denmark and Sweden do not object to the passage of Soviet warships enroute to an offensive mission. Friendly nations bordering the Danish Straits are necessary if Soviet ships are to use the Straits militarily because the Straits are relatively easy to close by mining.

The limited access of the Soviet Baltic Fleet to the open oceans has caused Soviet planners to limit the types of ships in the Baltic Fleet to those ship types which are required for military uses in or near the Baltic Sea.

## D. SOVIET NAVAL TRANSITS RELATED TO SOVIET NAVAL MISSIONS

### 1. Strategic Mission

There are no strategic forces in the Baltic Fleet. (25:131) Submarines have no submerged means of egress from the Baltic Sea and, therefore, the requirement for ballistic-missile-firing submarines to remain unlocated would be difficult to achieve. Western forces could gain great advantage by watching the exits from the Baltic Sea and tracking any submarine emerging enroute to its patrol area.

Because of the problem of the Danish Straits, submarines performing a strategic mission in the Atlantic Ocean deploy from the North Fleet. The difference in the distances travelled exiting the two fleet areas is insignificant. The development of the Yankee-class submarine produced the first major Soviet strategic submarine threat. At about the same time as the introduction of the Yankee-class submarine, the Soviet Union was making some major fleet changes. It was cutting back on the quantity and quality of ships in the Baltic Fleet and was building up the Northern Fleet. This indicates that the Soviet Union considers the problem of winter icing and the problem of transiting the Danish Straits to be serious enough to cause a major shift. The regime of the Danish Straits prevents surreptitious exit by submarines from the Baltic Sea and has contributed to the problems which have caused the Soviet Union to shift much of its Baltic Sea Fleet and all of its

Atlantic deploying ballistic-missile-firing submarines to the North Sea Fleet.

## 2. Defense of Homeland

The main military mission left to the Baltic Fleet is defense of the homeland. To accomplish this mission, the Soviet Navy requires transits of the Danish Straits. The Soviet Union is the strongest Baltic naval power and has little to fear from a naval attack by another Baltic power. The Soviet Union also has little to fear from a non-Baltic naval power penetrating into Baltic waters because of the problem of limited access routes. By the time a non-Baltic naval power entered the Baltic Sea, the naval war would have been nearly lost by the Soviet Union. The Baltic Fleet would then be used to assist in the defense of Baltic ports.

Nevertheless, the Baltic navy also has the capability of performing an offensive role. By transiting the Danish Straits, the Baltic Fleet ships can join ships of the North Fleet in meeting a naval force approaching the Soviet Union. Baltic Fleet ships can contribute to defense of the homeland by performing in antiship and antisubmarine roles in the North Sea and in the northern Atlantic Ocean. The Soviet Navy might transit the Danish Straits to initiate an amphibious attack against coastlines in the North or Norwegian Seas. The Soviet Baltic Fleet amphibious capability has grown. A scenario in which Soviet amphibious warfare ships from the Baltic Fleet have attacked outside the Baltic has

been demonstrated in Soviet fleet exercises. If Baltic Fleet ships were needed in these roles, the Soviet Navy would probably disregard the regime of the Danish Straits and sail as many ships as might be required and without notice. This move could be excused on the part of the Soviet Union as an act in time of emergency and a diplomatic note to that effect might be transmitted to the Danish and Swedish governments in mitigation of the act.

### 3. Naval Presence

Possibly one of the most important roles the Soviet Navy is playing in the Baltic Sea is that of maintaining Soviet presence. Keeping the Baltic free of Soviet enemies is important to the Soviet government. This is evidenced in the Soviet effort to proclaim the Baltic a closed sea which would prevent non-Baltic warships from entering the Baltic Sea.

As the most powerful naval force in the Baltic, the Soviet Navy is ensuring that other Baltic nations remain on good terms with the Soviet Union. Even though the Baltic is not recognized as a closed sea, the Soviets have the capability of militarily controlling any Baltic activity. For this purpose, the Soviet Navy maintains strong amphibious and mine warfare forces in the Baltic Fleet.

The Danish Straits limit the capability of the Soviet Navy to deploy out of the Baltic in support of Soviet naval objectives but the navigational restriction applies equally to non-Baltic nations, with relaxations only during

NATO maneuvers, and limits their capability to perform military missions in the Baltic Sea. Because of the Danish Straits, the Soviet Union is able to effectively treat the Baltic as a closed sea by application of its naval presence even though international law does not recognize the Baltic Sea as being closed.

#### 4. Protection of Economic Interests

Baltic ports bound the northwestern section of the Soviet Union's greatest industrial area. For this reason, the ability to use Baltic ports as terminals for international shipping is important to the Soviet Union. The Danish Straits are the only natural shipping channels between the Baltic Sea and the open ocean and they are the only channels through which merchant shipping has legally and traditionally been granted free passage. The Soviet Union needs passage of merchant shipping through the Danish Straits in order to ensure the flow of shipping to and from its industrial Baltic ports.

Maintenance of a strong naval force in the Baltic Sea gives the Soviet Union a strong bargaining position. In the unlikely event that the regime of the Danish Straits should change and that merchant ship transits of the Danish Straits should be imperiled, the Soviet Navy is in a position to further the economic interests of the Soviet Union by forcing the right of Soviet merchant ships to transit the Danish Straits.

## E. ALTERNATIVE ROUTES

There are two routes between the Baltic Sea and open ocean that could be used in lieu of the Danish Straits. The first route is the internal waterways between the Baltic Sea and the White Sea or Black Sea and the second route is the Kiel Canal.

Inland waterways would be an unsatisfactory alternative for the transit of naval vessels from the Baltic Sea to the open ocean. Although passage is guaranteed by enclosure of the waterways within Soviet territory, transit of large ships would not be possible, transits would be time-consuming enough to make this a poor method of reacting to a tactical threat, and transits through inland waterways would be a tedious means of deploying. The Baltic-White Sea Canal stretches 141 miles between Leningrad and Byelomorsk while a journey from the Baltic Sea to the Black Sea would be a longer route through natural rivers and lakes. If ships home ported in the Baltic Fleet were expected to deploy to open ocean areas, closure of the Danish Straits would prompt the transfer of most Baltic Fleet ships to other home ports, probably in the North Fleet, which would be a much simpler solution to the problem than deploying through inland waterways. If the Danish Straits were closed to the passage of warships, the defensive problems of the Soviet Union would be simplified and they would probably be satisfied with an even smaller naval force in the Baltic Sea. Inland waterways might be satisfactory only as a means for inter-fleet transfers of small ships.

The Kiel Canal, in northwest Germany, was built between 1887 and 1895 to facilitate shifting the German fleet between the North Sea and the Baltic Sea. It connects the North Sea with the Baltic Sea between Burnsbuttelkoog and the Kiel suburb of Holtenau. The canal is sixty-one miles long, thirty-seven feet deep, and has a surface width of three hundred thirty-eight feet. The Kiel Canal is of sufficient size to permit the passage of any ship of the Soviet Baltic Fleet. (1:179-181)

The Kiel Canal is the best of all routes between the Baltic Sea and the open ocean. Its only drawbacks are the requirement to pay a toll for passage and its control by the West German Government (Federal Republic of Germany). The advantages are, first, that the route is safer than natural passages because of regulation and maintenance and, second, that the journey through the Kiel Canal is about 250 miles shorter than the trip through the Danish Straits.

If the Soviet Union were in control of the Kiel Canal, the alternative route might be more than satisfactory; it might be preferred. Passage of warships through the Kiel Canal, however, is subject to permission of the West German Government obtained through diplomatic channels. The Soviet Union cannot be assured of permission for her warships to transit the Kiel Canal and, therefore, must consider the Danish Straits to be the primary route between the Baltic Sea and open oceans.

## F. POSSIBLE REGIMES FOR THE DANISH STRAITS

Since all routes of the Danish Straits are enclosed within territorial waters and since the regime of the Danish Straits has been established in international law and international custom, the likelihood that the regime of the Danish Straits will change is small. All nations have accustomed themselves to the current regime. That is demonstrated by the fact that the Soviet Union, the nation with the most to lose by restrictions to transits of the Danish Straits, has accepted the current regime, with the exception of objecting to NATO members being permitted to exercise in the Baltic, and has adapted its policies and actions to accommodate the regime. (1:134-138) Nevertheless, the possibility exists that Sweden and Denmark, or Denmark unilaterally, might, in time of international tension or under threat of imminent violence, close the Danish Straits to passage of warships. A less serious and more probable revision to the regime of the Danish Straits is that either or both of the nations controlling the straits might decide to require prior notice for any transit of warships through the straits.

There is no reason for the regime of the Danish Straits to be changed in any other manner. A relaxation of the regulations concerning passage of warships would be a relinquishment of the power of a coastal state which is not required by international law nor which is a normally agreeable concession by any sovereign nation.

A change from the granting of innocent passage for merchant shipping would gain nothing for either Denmark or Sweden. The change would be contrary to present international law so that restriction of merchant ship transits would be condemned by world opinion. It would be contrary to the normal interest of nations, such as Denmark and Sweden, who have a national stake in seaborne commerce and must rely on ocean access for their own merchant ships. Any such restrictive action would be a dangerous precedent which might be used later to the disadvantage of Denmark and Sweden. The move would be futile because merchant ships would still have the convenient route of the Kiel Canal available to them.

A possibility for a change to the regime of the Danish Straits is that further restrictions might be placed on the passage of warships. This move might make Denmark, Sweden, and the remaining Baltic powers, especially the Soviet Union, feel more secure. A prime consideration in postulating a change to the regime of the Baltic Sea is that, before joining NATO in 1949, Denmark had always leaned toward the strongest Baltic power. NATO gave Denmark the chance to break with historical inevitability but a weakening NATO could make it difficult for Denmark to hold against the aims of a strong power in the Baltic. (18:12-13)

#### G. SOVIET REACTION

If further restrictions were to be placed on the transit of warships through the Danish Straits, the Soviet Union

would accommodate its naval policies to the new restriction. The Soviet government supports regulations requiring advance notice for transit of warships through straits. That requirement might be considered legitimate and should be complied with by the Soviet Union. (1:23)

At first glance, closure of the Danish Straits to the passage of warships might be thought to destroy the Baltic Fleet's capability of performing its missions. Transit of Soviet warships through the Danish Straits, however, is not necessary for the Soviet Union's navy to accomplish missions which might just as well be accomplished by the newer and more powerful Soviet ships from the North Fleet. The Soviet Union has revised the composition of the Baltic naval force so that its mission is conducted almost totally within the confines of the Baltic Sea and, at the same time, built up the North Fleet to accomplish the missions required in the Atlantic theater of operations.

The Soviet Union is now using naval power to make the Baltic Sea a nearly closed sea because of their military prevalence in the area. Instead of objecting to closure of the Danish Straits to transits of warships, the Soviet Union might welcome the act as the final step toward creating a closed sea in the Baltic without the necessity of international agreement or establishment of its validity in international law.

#### IV. THE TURKISH STRAITS

##### A. DESCRIPTION

The Turkish Straits include the Bosphorus, the Sea of Marmara, and the Dardanelles. They connect the Black Sea with the Mediterranean Sea which then permits access to the Atlantic Ocean through the Straits of Gibraltar and to the Red Sea and Indian Ocean through the Suez Canal. The straits separate European from Asiatic Turkey. The trip through the Straits is a journey of about 190 miles.

##### 1. The Bosphorus

The Bosphorus joins the Black Sea with the Sea of Marmara. Its name is from the legend of Io. According to the legend, Zeus turned Io into a cow to protect her from Hera while Io was fleeing from Thrace to Egypt. Disguised as a cow, Io swam the Bosphorus and the Strait was named Bus Poros which means "cow-ford."

The Bosphorus is seventeen miles long and varies in width from 650 yards at its narrowest point to 3,600 yards at its widest. The average depth of the Bosphorus is 165 to 230 feet while its maximum depth is about 400 feet. The current in the Strait forms treacherous whirlpools in several places and has been called "the Devil's Current." Easterly and northerly gales hazard navigation at the Black Sea end of the Strait.

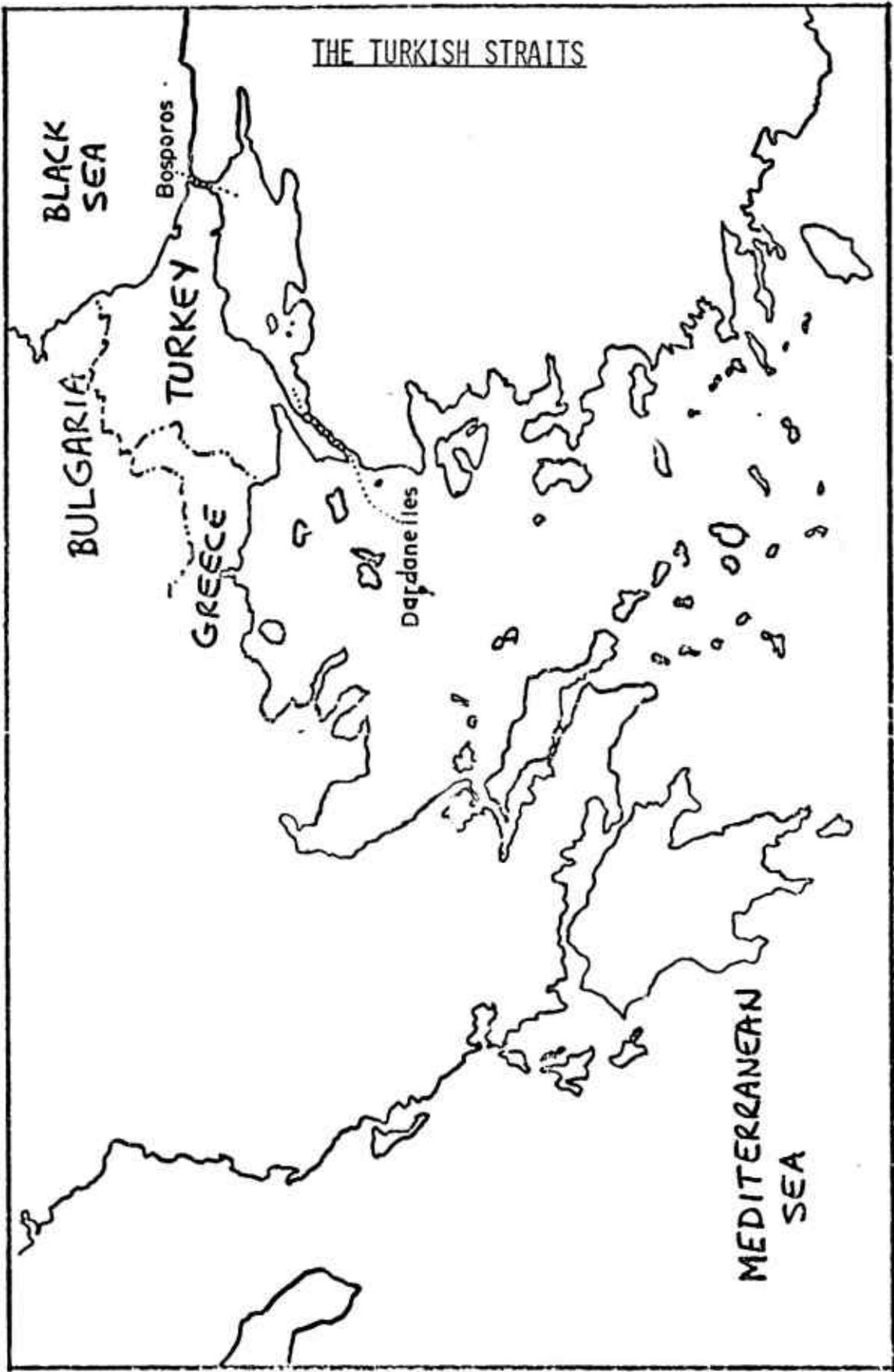
## 2. The Sea of Marmara

The Sea of Marmara lies between the Bosphorus and the Dardanelles. Istanbul is on its northeastern shore at the entrance to the Bosphorus. Its greatest length is about 170 miles but ships transiting between the Bosphorus and Dardanelles require a journey of only 115 miles. The greatest depth in the Sea of Marmara is 4,500 feet and its greatest width is nearly 50 miles. The sea gets its name from Marmara Island which lies in its western section. Princes Islands lie in the eastern section near Istanbul.

## 3. The Dardanelles

The Dardanelles is the strait connecting the Sea of Marmara to the Aegean Sea and the Mediterranean Sea. It was called Hellespont in the classical age after Helle who, in mythology, drowned in its waters while fleeing with the golden fleece. The modern name, Dardanelles, is from the town of Dardanos, now named Ilium, which was ancient Troy and which was near the southern shore of the Straits. Originally, the name was applied not to the Strait but to the fortifications along the shores which accounts for its plural form.

The Dardanelles is about forty miles in length. Gallipoli is the only town of significance in this distance. The width of the Strait varies from 1,400 to 6,850 yards and its depth varies from 150 to 350 feet. At the narrowest point, the current in the Strait is sometimes as swift as



five knots which makes navigation hazardous, especially in the presence of cross winds.

## B. REGIME OF THE TURKISH STRAITS

The problem of regulating the Turkish Straits can be traced as far back as the Trojan Wars in the twelfth century B.C. when Troy controlled the Straits and Greek ships used the Straits for importing grain from the fertile areas around the Black Sea littoral. Modern history, though, should begin with the Treaty of Kuchuk-Kaimardji between Russia and the Ottoman Empire in 1774 in which Russia obtained the right for her commercial vessels to transit the Turkish Straits. That treaty was the wedge which, in ensuing years, opened the straits to merchant vessels of all nations.

Warships were another matter. In 1805, Russia and the Ottoman Empire agreed that the Black Sea was a closed sea and that warships of all powers would be denied transit of the Turkish Straits. The agreement specifically stated the understanding that Russian warships were to have free passage of the Straits. This was necessary for Russia to participate in defense of the Straits against foreign warships.

The spirit of the agreement concerning merchant ships was reaffirmed in treaties and conventions between the Ottoman Empire and many seafaring nations during the nineteenth century. The position on warships, however, changed as opportunity and threat changed. In 1841, the position on warships was moderated to exclude foreign warships from

the Black Sea only so long as Turkey was at peace. Then, in 1856, to conclude the Crimean War an agreement was made between Great Britain, Austria, France, Prussia, Russia, Sardinia, and the Ottoman Empire stating that the Black Sea was neutral. The agreement allowed freedom of commerce in the Black Sea but excluded all foreign warships, allowed no military-maritime arsenals on the Black Sea coasts, and allowed Russia and the Ottoman Empire only a few Black Sea naval vessels for policing the treaty. The Black Sea was a demilitarized area.

Russia fought the Crimean War for, among other things, control of the Turkish Straits. The 1850 agreement limited the Russian naval capability in one of the few areas where Russia had access to the oceans and an area where one of Russia's strongest fleets had been based.\* Turkey considered the Russian limitation necessary for maintenance of Turkish security. The Black Sea remained neutral for nearly fifteen years but, in 1870, Russia disavowed the 1856 treaty and resumed naval operations in the Black Sea and through the Turkish Straits.

The regime of the Turkish Straits remained relatively stable until the twentieth century when the two world wars caused major changes to be made both to the regime of the

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\*The Pacific Fleet was established in 1932 and the Northern Fleet was established in 1933. In 1856, Russia's access to open ocean was by exiting the Black Sea through the Turkish Straits or by exiting the Baltic Sea through the Danish Straits.

Turkish Straits and to the militarization of the Black Sea. The twentieth century has seen three treaties regulating the Straits -- The Convention of Sevres, August 10, 1920, The Convention of Lausanne, July 24, 1923, and the Convention of Montreux, July 20, 1936.

The Sevres Convention would have opened the Turkish Straits to every commercial or military ship or aircraft but the convention never entered into force. The Lausanne Convention was part of the World War I peace settlement. It regulated passage of and demilitarized the Straits. It allowed transit of both merchant and military ships. The Lausanne Convention lasted until the world-wide political situation caused Turkey to doubt the security provided by the Lausanne Convention which relied on the support of League of Nations members for defense. While the Germans rearmed and denounced their treaties, the Turks called for a revision of the convention regulating the Turkish Straits. This revision produced the Montreux Convention which omitted the demilitarization required by the Lausanne Convention and allowed the Turkish Government to halt the passage of warships when Turkey would be threatened or at war. The Montreux convention is still in force today.

The following are the general provisions of the Montreux Convention. (See Appendix H)

1. Merchant Ships

In time of peace or in time of war when Turkey is not a belligerent, merchant ships have complete freedom of

navigation in the Turkish Straits. When Turkey is threatened by war, merchant ships are still granted free passage of the Straits but they may enter the Straits only during daylight hours and must follow the route indicated by Turkish authorities.

## 2. Surface Warships

During peacetime, light surface vessels, minor warships, and auxiliaries of any flag have freedom of transit through the Turkish Straits. Black Sea powers may send ships larger than 15,000 tons through the Straits if they pass singly and are escorted by no more than two destroyers. This tonnage limitation applies to the Soviet MOSKVA Class Helicopter Missile Cruisers and the SVERDLOV Class Cruisers based in the Black Sea. It will apply to the Kiev Class Aircraft Carrier now being built in the Black Sea. Non-Black Sea powers may not have a ship larger than 15,000 tons nor more than a total of nine ships in the Black Sea at one time. The tonnage limitations would apply to the ALBANY Class Guided Missile Cruiser and larger ships of the United States Navy. The limits do not apply to ships paying courtesy visits at the invitation of the Turkish Government. Notification of intended passage of any warship is required eight days in advance for Black Sea powers and fifteen days in advance for non-Black Sea powers.

During time of war when Turkey is neutral or non-belligerent, peacetime rules apply to warships of non-belligerents. Warships belonging to belligerents may not

pass the Straits except to render assistance to victims of aggression who have a mutual assistance agreement with Turkey. Warships separated from their home bases by the Turkish Straits at the time of outbreak of hostilities are permitted to pass the Straits to return to their home bases.

When Turkey is threatened by war, she may deny passage of warships at her discretion. Warships which transited the Straits before determination of a threat are permitted to return to their bases but Turkey may deny that right to warships belonging to a state which caused Turkey to perceive the threat.

In time of war when Turkey is a belligerent, passage of warships through the Straits is entirely at the discretion of the Turkish Government.

### 3. Submarines

Non-Black Sea powers are not authorized to send submarines through the Straits for any reason. Black Sea powers may send submarines through the Straits if they were constructed or purchased outside the Black Sea and require transit of the Straits in order to join their bases. Submarines belonging to Black Sea powers are also permitted to transit the Turkish Straits if they require repair in shipyards outside the Black Sea. In both cases, adequate prior notice and details must be provided to the Turkish Government.

#### 4. Aircraft Operations

Civil aircraft are permitted to fly over the Turkish Straits so long as they provide advance notification of their overflight and they remain within air corridors established by the Turkish Government. Warships, however, are not permitted to operate aircraft while transiting the Turkish Straits. In fact the Montreux Convention makes no provision for allowing overflight of any military aircraft. In addition, the United Nations Convention on the Territorial Sea and the Contiguous Zone does not grant innocent passage to aircraft which means there is no law under which military aircraft can legally transit or operate in the air space over the Turkish Straits. Passage of military aircraft through the air space over the Turkish Straits, then, is entirely at the discretion of the Turkish Government.

#### 5. General Limitations

Aggregate tonnage of warships in the Black Sea belonging to non-Black Sea powers may not exceed 30,000 tons in time of peace while tonnage of any one non-Black sea power may not exceed 20,000 tons. If the Soviet fleet is increased by at least 10,000 tons over its tonnage at the time of signing of the Montreux Convention, the aggregate tonnage for non-Black Sea powers may be increased to 45,000 tons and the maximum tonnage allowed any one non-Black Sea power may be increased to 30,000 tons. The 10,000 ton increase has been reached by the Soviet Navy.

Provision is also made for a limited non-Black Sea force to enter the Black Sea for humanitarian purposes.

Regardless of the reasons for presence, warships of non-Black Sea powers may not remain in the Black Sea longer than twenty-one days.

#### 6. Duration

The Montreux Convention was designed to last twenty years. It could be amended or revised at the end of each five-year period by initiation of a proposal by any signatory. Signatories to the convention were Bulgaria, France, Great Britain, Greece, Japan, Rumania, Turkey, U.S.S.R., and Yugoslavia. The treaty will last in perpetuity, even after its intended twenty years, until any signatory gives a two-year advance notice of intention to denounce the treaty. All signatories agreed to hold a conference for arriving at a new convention if notice of denunciation of the Montreux Convention would be given.

The Montreux Convention has survived to the present without denunciation and with only minor revision even though some of its provisions and its language are obsolete.

Regardless of the list of signatories and provisions for their denouncing or changing the Montreux Convention, the regulations governing passage of ships through the Turkish Straits appear to have entered the realm of a customary legal regime. As such, they apply to all nations whether they were signatories to the convention or not. In addition, since the regime of the Straits falls under

customary law, the power to change the convention is not necessarily limited to signatories to the convention. This was illustrated as early as 1945 when, at Potsdam, the United States, Great Britain, and the Soviet Union endeavored to achieve a modernization of the regime of the Turkish Straits.

The "customary legal regime" of the Turkish Straits is internationally recognized as binding to non-signatory as well as signatory powers. Even if denounced, the regime of the Straits would undoubtedly remain as recognized law until some international agreement could be reached which would regulate the Turkish Straits.

#### C. SOVIET NAVAL TRANSITS

The Soviet Navy's ships transit the Turkish Straits into the Mediterranean Sea to support its largest out-of-area commitment. After the Suez Canal is reopened, the importance of the Turkish Straits might grow because the Soviet Black Sea force also could be used to support the Soviet commitment in the Indian Ocean.

The regime of the Turkish Straits affects the composition of the Soviet Black Sea Fleet and its mission capability. The reason that a relatively small number of submarines is home ported in the Black Sea and that most of them are conventional medium-range attack submarines is that submarines are generally not permitted to transit the Turkish Straits. (34:26) This means that the Soviet Navy cannot

support a Mediterranean Sea commitment with submarines from its Black Sea Fleet and that submarines based there are intended for use in the Black Sea.

The requirement for advance notice of passage through the Straits means that it is never a surprise when Soviet navy ships leave the Black Sea. The Soviets may falsely indicate intended transits in order to give an erroneous impression of an intended Mediterranean build-up but, still, any real build-up is announced by the requirement for advance notification.

The limitation on the transit of ships over 15,000 tons is only a minor impediment that should not prove detrimental under normal circumstances. Only a few ships larger than 15,000 tons are based in the Soviet Black Sea Fleet and they would not normally deploy together.

Effects of the regime of the Turkish Straits are clearly seen in the composition of the Black Sea Fleet. While it is convenient for the Soviet Union to support its Mediterranean Sea commitment by deploying ships from the Black Sea, limitations to transit of warships has been an obvious factor in causing the Soviet Navy to decrease the size of the Black Sea Fleet, limit its Black Sea submarine force, and maintain a majority of general purpose forces in the Black Sea.

Although some Soviet naval ships have transited the Turkish Straits to participate in major fleet exercises as far from the Black Sea as the northern Atlantic Ocean, Soviet warships generally transit the Turkish Straits for

the purpose of maintaining a naval force in the Mediterranean. Naval ships from the Black Sea may be expected to augment the Indian Ocean forces after the Suez Canal is reopened.

#### D. SOVIET NAVAL TRANSITS RELATED TO SOVIET NAVAL MISSIONS

##### 1. Strategic Mission

Soviet strategic forces are not permitted to use the Turkish Straits because of the ban on transits of submarines imposed by the Montreux Convention. Even if Soviet submarines were granted authority to use the Straits or if they were able to transit the Straits surreptitiously, Soviet submarines would present a relatively simple detection problem either upon their exit from the Turkish Straits or upon their exit from the Mediterranean if they were to venture into the Atlantic or the Indian Oceans.

Because of the legal and physical restrictions to submarines transiting the Turkish Straits, the Soviet Navy does not maintain strategic submarine forces in the Black Sea. (25:131) The Straits make a Black Sea strategic submarine force impractical and, in recognition of this fact, the Soviet Union has stationed its strategic submarines in other areas which are more convenient and nearer to the primary mission areas.

##### 2. Defense of the Homeland

Defense of the homeland is probably the main military mission of the Soviet Black Sea naval forces transiting the

Turkish Straits. After World War II, the Soviet Union developed its Black Sea fleet but kept its ships within the boundaries of the Black Sea to protect that area of its territory. An interest of the Soviet Union in the Turkish Straits was to devise a treaty which would ensure foreign powers would be restrained from threatening Soviet supremacy in the Black Sea. The United States, meanwhile, was providing naval forces to NATO which were stationed in the Mediterranean Sea. With the advent of carrier-based aircraft capable of carrying nuclear weapons in the late 50's and with the introduction of strategic ballistic-missile-firing submarines into the Mediterranean in the early 60's the Soviet Union perceived a naval threat to their territorial area which was not combated by their force stationed in the Black Sea. The Soviet Union determined the necessity for deploying ships into the Mediterranean in order to combat the threat of United States carrier task groups and ballistic-missile-firing nuclear submarines.<sup>6</sup> For this purpose, their Black Sea Fleet was ideal except that they

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<sup>6</sup>The statement that the Soviet Union deployed naval ships into the Mediterranean in a defensive posture is controversial in that an opposing opinion states the action was offensive and designed as an instrument of Soviet policy. That opinion holds the Soviet Navy deployed into the Mediterranean as an ambassador to extend Soviet authority, to demonstrate Soviet technology, to protect Soviet shipping, to support Soviet allies, and to show Soviet strength. While these uses for the Soviet Navy are evident, the position taken in this paper is that the primary mission of the Soviet Navy was defensive and that the advantages of Soviet naval presence were ancillary. This position is based on Soviet history and the

were unable to send their attack submarines through the Turkish Straits. Therefore, the Soviet Union uses the Turkish Straits to send defensive surface forces from the Black Sea into the Mediterranean Sea to combat the threat to the Soviet homeland they perceive in the Mediterranean. Soviet submarines which combat United States aircraft carriers and submarines are forced to transit from the North Fleet or the Baltic Fleet and enter the Mediterranean Sea through the Strait of Gibraltar.

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sequence of events in the Mediterranean.

The Soviet Union was, historically, a land power which used its army as an instrument of influence and its navy to defend its coasts. The Soviet move into the Mediterranean was the first Soviet naval deployment and came only after the United States Navy became a long range threat to the Soviet homeland. (22:5)

Throughout history, Russia refused to annex territory which would depend on seapower for support. They retreated from California, declined to annex Hawaii, and sold Alaska to the United States. (35:66-69) These actions are uncharacteristic of a power which had always endeavored to increase its territory and might be attributed to the possibility that Russia did not have the navy nor did it intend to build a navy which could support Russian interest across seas or oceans.

The Soviet Navy was generally kept within the Baltic Sea and the Black Sea until the 1930's when naval ships were based in the Northern Fleet and the Pacific Fleet. Those basing actions could be attributed to the necessity for defending an expanding Soviet Union whose borders had reached the White Sea and the Pacific Ocean.

After World War II, the Soviet Navy was ill prepared to deploy offensively because of the damage inflicted by Germany. Nevertheless, the Soviet Navy received relatively high priority and was rebuilt. The first protracted continuous deployment of Soviet naval forces was made into the Mediterranean in 1964. This was the remote area of most immediate threat to the Soviet homeland and could be interpreted to be a move in the defense of the Soviet homeland.

### 3. Naval Presence

The Soviet naval deployment into the Mediterranean was a defensive move but it provided the Soviet Union with a collateral benefit. The Soviet naval presence in the Mediterranean brought new prestige to the Soviet Government. Previously, the United States, as the dominant power, had its own way in the Mediterranean. The Soviet Union had followed its traditional method of expanding its influence by increasing the depth of its layer of buffer states around its perimeter while the United States had extended its influence throughout the world. When the Soviet Navy entered the Mediterranean, it found it not only served the defense of the Soviet Union but that it also was an instrument of spreading Soviet influence. The Soviet Union must have learned that, as the Soviet Navy gained influence for the Soviet Union, the influence of the United States decreased.

The Soviet Navy, in the early years of Mediterranean deployments, limited its operations to the eastern Mediterranean. In recent years, it has expanded its operations into the western Mediterranean where it has been especially active in the area of North Africa.

The Soviet Navy has increased its operations in the Mediterranean Sea from 4,000 ship days in 1965 to 18,000 ship days in 1972. (2:13) Submarines patrol the entire area. Surface ships patrol near Gibraltar, south of Sicily, between Crete and Greece, and from Egypt to Turkey along the

borders of Israel, Lebanon, and Syria. These surface warships can be seen transiting throughout the Mediterranean. Intelligence collecting ships can be found in the areas of tactical interest throughout the Mediterranean and in company with United States naval ships during maneuvers. (23:28) Soviet naval ships visit ports in every African nation bordering the Mediterranean, in Syria, Greece, Yugoslavia, Italy, and Spain. In addition, the Soviet Navy uses established anchorages in the Mediterranean for staging and logistics.

The Soviet Union has made its presence felt in the Mediterranean. It has attained a position of power and high status. Soviet achievements in the Mediterranean have been the result of the deployment of naval ships from the Black Sea through the Turkish Straits.

#### 4. Protection of Economic Interests

The southern section of the Soviet industrial area borders on the Black Sea. Soviet merchant shipping must have access to Black Sea ports and must be able to range from Black Sea ports to areas with which they engage in international trade or support. The Turkish Straits make up the only channel by which merchant ships from outside the Black Sea can communicate with Black Sea ports and the only channel by which Soviet merchant ships can exit the Black Sea. The Soviet Union requires passage of the Turkish Straits for its merchant ships in order to maintain seaborne trade between importing or exporting nations and the Soviet southern industrial area.

By maintaining a naval force in the area of the Turkish Straits, the Soviet Union is ensuring that it has a strong bargaining position concerning activities in that area. Historical precedent would indicate that the likelihood of the Turkish Government restricting the passage of merchant shipping through the Turkish Straits is slim. Nevertheless, should some future conflict threaten the ability of the Soviet Union to maintain its flow of commerce to its industrial area because of closure of the Turkish Straits, the Soviet Navy is in position to represent the economic interest of the Soviet Union by forcing the right of merchant ships to transit the Turkish Straits.

#### E. ALTERNATIVE ROUTES

The only practical route for Soviet shipping to enter or exit the Black Sea is by way of the Turkish Straits. There is no passage through which ships may transit from the Black Sea into the Mediterranean Sea by way of canal or any natural waterway other than the Turkish Straits. There is a series of inland waterways through which ships may pass from the Black Sea to either the Baltic Sea or the White Sea and then to open ocean areas. While passage through the inland waterways is guaranteed, it is available only to smaller ships, is a tedious and time consuming trip, and leaves Black Sea ships far from a Mediterranean destination with restricted waters yet ahead.

A requirement for naval ships to transit the inland waterways would be satisfactory for inter-fleet transfers but would be tactically unsound. Reaction time would be unreasonably long and, at the end of a difficult transit, Black Fleet ships would be at the position from which other naval ships are prepared to start a transit. Naval ships could be more advantageously based in other ports rather than being based in an area where deployment would be so difficult. The Mediterranean commitment would be made more difficult to maintain if Soviet naval ships were required to use the system of inland waterways to exit the Black Sea.

A requirement for merchant ships to use the system of inland waterways would be equally unsatisfactory. Large ships would be physically prohibited and even small ships would not be as satisfactory as simple barges for carrying commerce through the network of waterways. The inland waterways would be useful only for facilitating the transport of materials from the Black Sea to inland ports.

Other alternate routes for achieving the Soviet Navy's mission in the Mediterranean would be to use the Strait of Gibraltar or the Suez Canal for ships entering the Mediterranean. This alternative would not solve the problem of permitting ships to transit into or out of the Black Sea but it provides routes by which the Soviet Navy could send ships into the Mediterranean from other fleet areas to accomplish the mission of a bottled-up Black Sea Fleet. It

would be completely unsatisfactory for merchant ships requiring access to Black Sea ports or requiring egress from the Black Sea.

The feasibility of Soviet naval or merchant ships using any route other than the Turkish Straits to deploy to or from the Black Sea is not likely. Supplying naval ships for the Mediterranean Sea commitment from other fleets through the Suez Canal or Strait of Gibraltar is possible but inconvenient and it would tax the capability of other fleets to perform their present missions.

#### F. POSSIBLE REGIMES FOR THE TURKISH STRAITS

The Montreux Convention has proved to be a very stable set of regulations for controlling the Turkish Straits. The probable reasons for its stability are that all signatory powers have adjusted to the balance it mandates and that no power will agree to a change which might give an advantage to some other power. Non-Black Sea powers with strong navies would probably like relaxations to regulations restricting passages of their ships through the Turkish Straits but not at the price of relaxing regulations restricting passage of Soviet ships and submarines out of the Black Sea. The Soviet Union might prefer relaxation of regulations restricting passage of Soviet naval ships and, especially, submarines through the Turkish Straits but not at the price of relaxing the restrictions to non-Black Sea powers' warships

entering the Black Sea.<sup>§</sup> The possibility of arriving at a more unfavorable regime has probably been the factor which has prevented any major change in the Montreux Convention at the behest of any major power and has prevented any signatory power from giving the two year notice of intent to denounce the treaty which would be required for terminating the provisions of the Montreux Convention or for convening a conference for concluding a new convention.<sup>¶</sup> The Montreux Convention remained effective after its twenty-year intended duration and, if left to the whims or intentions of signatory or other world powers, it will probably remain in effect to regulate transits of the Turkish Straits for the foreseeable future.

There are two possibilities of changes which would affect the regime of the Turkish Straits. The first is that the Turkish government might unilaterally proclaim that it would no longer abide by the Montreux Convention and that passage of foreign ships through the Turkish Straits would

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<sup>§</sup>If submarines were permitted to transit the Turkish Straits, the Soviet Navy could support its Mediterranean commitment with submarines from the Black Sea fleet. While the submarines would be required to transit on the surface and would be detected entering the Mediterranean, Soviet submarines are required to pass through restricted waters at Gibraltar or Suez if entering the Mediterranean by another route. The shorter trip would probably be worth the added probability of detection.

<sup>¶</sup>For example, the world's strongest powers were not able to effect any change to the Montreux Convention as part of the peace settlement of World War II even after agreeing at Potsdam that the Convention needed to be changed.

be at the pleasure of the Turkish Government. The probability of this occurrence is slim because, although it would give the Turkish Government a stronger bargaining position when dealing with other States, the Montreux Convention has entered into the realm of customary law and any unilateral change on the part of the Turkish Government would undoubtedly meet with disapproval by other nations and, probably, political and economic sanctions against Turkey so long as the unpopular position would be maintained.

The Turkish Government does not need additional regulation for security. The Montreux Convention already provides for control of all ships transiting the Straits should Turkey be at war or be threatened by war. That should be sufficient protection for the Turkish nation. Any unilateral act of unwarranted restriction to passage of warships through the Straits would probably be met by resistance from other nations who would insist on traditional rights provided by the Montreux Convention or a new international agreement to regulate the Straits.

Nevertheless, if the international law of the sea is changed to give new rights to strait states which are more restrictive than the Montreux Convention, the Turkish Government would probably be persuaded by events to press for like changes in the regime of the Turkish Straits. In this case, the seafaring nations of the world, having just established a new precedent, would have little alternative but to accept a like regime for the Turkish Straits as they

had established for similar straits. . Then a unilateral move by the Turkish Government to change the regime of the Turkish Straits might appear to be legitimate.

The second occurrence which might affect the regime of the Turkish Straits is that the Mediterranean nations might proclaim the Mediterranean to be a "closed sea" and limit access to the Mediterranean to warships of Mediterranean countries. The principal of "closed seas" has been supported by the Soviet Union and has been suggested by Greece and Spain which are reasons that the proclamation might be a reasonable consideration. In order for such an act to be possible, however, all nations along the littoral of the Mediterranean Sea would have to be in agreement and act in harmony. This requirement nearly destroys any probability that the Mediterranean might be declared a closed sea.

If the Mediterranean Sea were closed and put off-limits to warships of non-Mediterranean powers, the problem of the Turkish Straits concerning passage of warships would be alleviated because the only ships eligible to transit the Straits would be those of Mediterranean nations. Once the Mediterranean had been declared "closed", the Soviet Union could achieve an old objective of declaring the Black Sea to be a "closed sea." After the Mediterranean and Black Seas were declared "closed," only Turkish warships would be eligible to transit the Turkish Straits because Turkey is the only nation which borders on both bodies of water. The

regime of the Turkish Straits would then be insignificant as it concerns passage of warships.

#### G. SOVIET REACTION

The reaction to a change to the regime of the Turkish Straits is a more complicated matter than it might seem at first glance. The reaction would depend on whether a change in the regime of the Turkish Straits would be an independent act or whether it would be accompanied by changes in the regimes of the other narrow waterways leading into the Mediterranean Sea. The balance of power in the Mediterranean is affected by naval powers entering through the Red Sea and the Strait of Gibraltar as well as those transiting the Turkish Straits.

If Turkey were to close the Turkish Straits to all ships including merchant ships, the Soviet Union would negotiate, with the assistance of other world powers, until some agreement could be reached which would allow passage of merchant ships.

If Turkey were to close the Straits to passage of warships as a unique act, the other world powers might not come to the side of the Soviet Union in negotiating an agreement for passage because the act would ensure a shift in the balance of power in the Mediterranean away from the Soviet Union. This occurrence would be so detrimental to the interests of the Soviet Government that the Soviet Navy could be expected to immediately stage strong naval forces on both ends of the

Turkish Straits and strong army forces on the Russian/Turkish border with the expectation that the Turkish Government would relent to threats of gunboat diplomacy and at least revert to the provisions of the Montreux Convention. If the Turkish Government did not relent to the threatened action, the Soviet Government would be forced to take military action to win the right for its warships to transit the Turkish Straits in order to continue their defensive actions against United States forces in the Mediterranean and to maintain their power and influence in the area. The only alternative to military action would be that the Soviet Navy might shift a large part of its Black Sea Fleet to the North Fleet or Baltic Fleet ports from where it could still support its Mediterranean commitment. Nevertheless, the increased difficulty of supporting a Mediterranean deployment from more distant ports and sympathy of world opinion at the Turks terminating a historic and legal right of passage by unilateral action would probably cause the Soviet Union to choose military action, if necessary, to enforce their right of passage through the Turkish Straits.

On the other hand, the Soviet Government might accept closure of the Turkish Straits to the passage of warships if the act were also accompanied by closure of Red Sea straits and the Strait of Gibraltar or even if it were only accompanied by closure of the Strait of Gibraltar even though warships might still be permitted to enter the Mediterranean through the Red Sea and Suez Canal.

Prohibition of the passage of all warships into the Mediterranean Sea could benefit the Soviet Union. If ships of the United States Navy and of United States' Atlantic allies were prevented from entering the Mediterranean Sea, the Soviet Union would no longer be required to deploy into the Mediterranean for a defensive mission against aircraft carriers and ballistic-missile-firing submarines of the United States Sixth Fleet. The remaining agents of influence in the Mediterranean would be merchant ships. The Soviet Union would probably use her merchant fleet as an instrument of influence just as it now uses its merchant fleet in a dual role to support and assist its navy. An advantage of this situation to the Soviet Union is that, with the disappearance of the United States threat, requirements on the Soviet Black Sea Fleet would decrease to the level where Soviet naval ships could be shifted from the Black Sea to other fleet bases where they could be used to augment currently constituted forces. The Soviet Union could maintain the foremost position in the Black Sea with many fewer ships than are presently stationed there and still have enough ships on station in the Atlantic Ocean and Indian Ocean as well as the Black Sea so that the Mediterranean would be surrounded by Soviet naval ships which could react on short notice if it were necessary for them to enter the Mediterranean for military purposes.

If the Red Sea and Suez Canal were the only entrance for warships, the Soviet Union would still have a formidable

position in the Mediterranean. Naval ships not needed in a "closed-in" Black Sea Fleet could be transferred to the Pacific Fleet which currently supports an Indian Ocean deployment. From there, they could deploy to the Indian Ocean and the Mediterranean Sea. The Soviet Union would still have an advantage over the United States in meeting requirements of a Mediterranean deployment because, with Gibraltar closed, Soviet ships from the Pacific Fleet would still be nearer to the Mediterranean Sea than ships of the United States' naval fleets and because the Soviet Navy maintains a powerful force in the northwestern section of the Indian Ocean which would be available to reinforce the Mediterranean Squadron or to react on short notice to some tactical requirement in the Mediterranean Sea. The canal is neither deep enough nor wide enough to accommodate United States aircraft carriers. (20:9) Ballistic-missile submarines could not transit the canal undetected. Passage of the Suez Canal, alone, would not permit the United States Navy to perform its mission in the Mediterranean Sea.

If the Mediterranean were declared a "closed sea," the effect would be the same as if the Turkish Straits, the Suez Canal, and the Strait of Gibraltar were closed to the passage of warships. For reasons previously discussed, this arrangement should be satisfactory and probably beneficial to the Soviet Union and might receive Soviet support.

If the Mediterranean Sea were closed to warships of non-Mediterranean nations and the Soviet Union were forced to

rely on its merchant navy to maintain the influence provided there by its warships, Soviet influence might be expected to decrease, as would the influence wielded by the United States. As the power of non-Mediterranean nations waned, the influence generated by the military forces of Mediterranean nations could be expected to increase. While the situation would not be completely satisfactory to the Soviet Government, the Soviets would still have advantages over the position that could be maintained by the United States. The Soviet merchant fleet is under closer control of the Soviet Government than is the merchant fleet of the United States by its government and the Soviet merchants could be expected to be better representatives of government policy than the fleet of the United States. In addition, the proximity to the Mediterranean of both the Soviet Navy and the territory of the Soviet Union itself with its large army is more imposing than a United States and its navy across the Atlantic Ocean. A loss of Soviet influence in the Mediterranean would be accompanied by a greater loss of influence by the United States. This relative gain for the Soviet Union accompanied by the removal of a threat to the Soviet homeland from the Mediterranean could make the closing of the Mediterranean an attractive situation for the Soviet Union.

In any event, the Soviet reaction to a change in the regime of the Turkish Straits would be no matter of simple considerations but would be a result of interrelated events

which could cause shifts in the balance of power in the Mediterranean Sea and which might change the threat in the Mediterranean to the Soviet Union. The Soviet Union would accept any change to the regime of the Turkish Straits so long as the change of regime did not increase the military threat to the Soviet Union and so long as the change did not affect the balance of power in the Mediterranean to the detriment of the Soviet Government.

## V. THE INDONESIAN STRAITS

### A. DESCRIPTION

The Indonesian archipelago contains or borders on five straits which are all of some significance to ships transiting between the Pacific Ocean or South China Sea and the Indian Ocean. These navigable straits are Malacca, Lombok, Sunda, Ombai, and Wetar. All five straits would be overlapped by territorial waters if 12 miles were the internationally accepted breadth of territorial waters because the straits narrow to less than 24 miles and the countries bounding them now claim a 12 mile territorial sea.

#### 1. The Strait of Malacca

The Strait of Malacca joins the South China Sea with the Indian Ocean. The Strait is bordered by the Malay Peninsula on the northeast and the Indonesian island of Sumatra on the southwest. Malacca is over 500 miles long and more than 200 miles wide at its northwestern meeting with the Andaman Sea arm of the Indian Ocean. The southeastern entrance narrows to a stretch of 21 miles and is cluttered with islands. The Malacca shipping channel is of sufficient depth for any ship to pass except for its narrow section where ships with a draft greater than 63 feet would find the Strait very dangerous to transit and ships such as the Soviet MOSKVA Class Helicopter Cruiser would find the Strait difficult.

## 2. Sunda Strait

Sunda Strait connects the Java Sea on the north with the Indian Ocean to the south. It is bounded by Sumatra on the west and Java on the east and several small islands lie between. The two major passages between the islands are 16 and 22 miles in width with minimum depths of 84 and 126 feet near the center areas of the two channels. Sunda Strait connects waters claimed to be "internal Indonesian waters" with the open seas of the Indian Ocean.

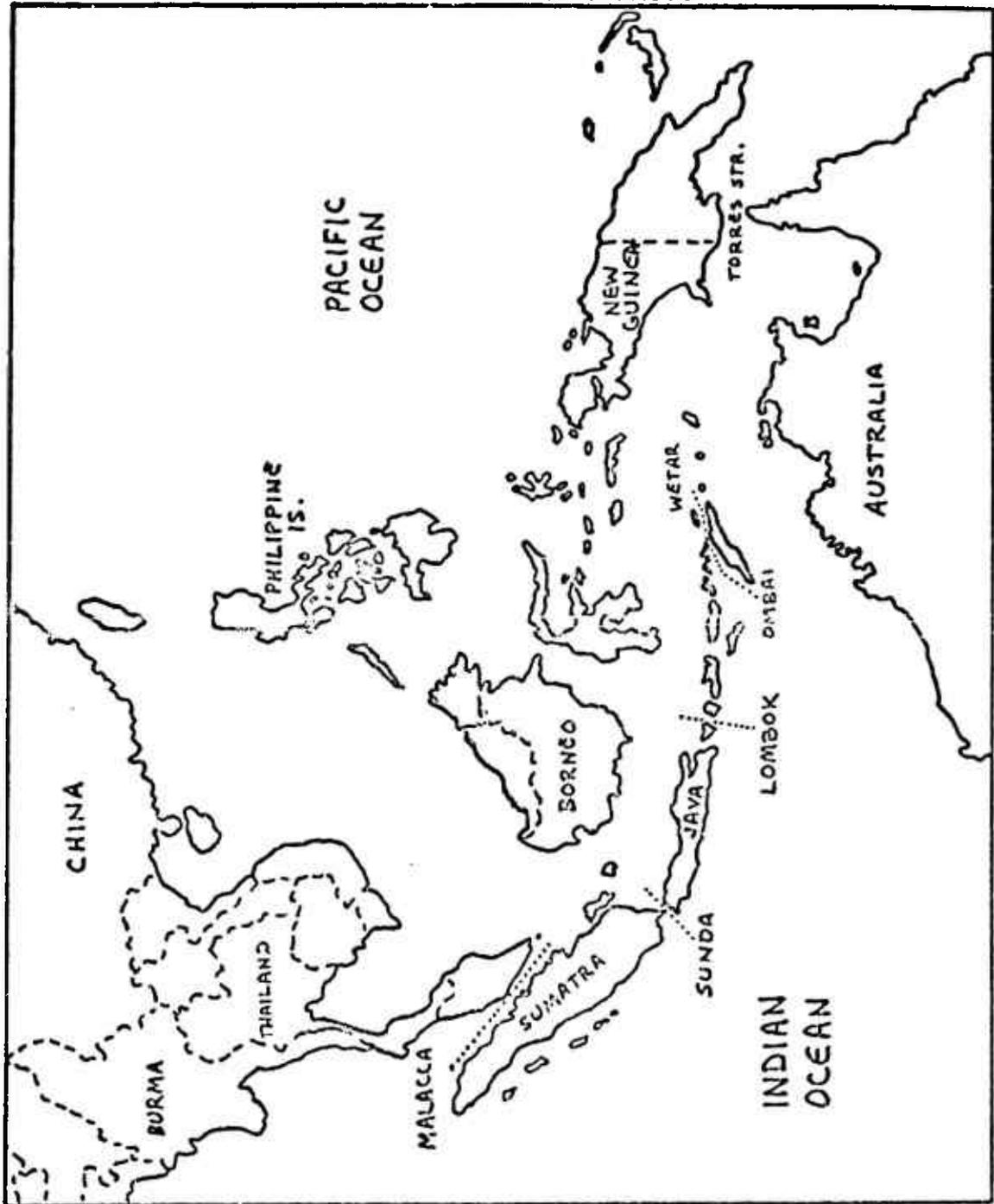
## 3. Lombok Strait

Lombok Strait connects the Java Sea on the north with the Indian Ocean to the south. The Strait is bounded by Bali on the west and Lombok Island on the east. One large island and two small islands lie in the center of the Strait creating two shipping channels which are the narrowest sections of the Strait. The western Channel is six miles wide with a minimum depth of 800 feet near the center. The eastern channel is eleven miles wide and has a minimum depth greater than 700 feet near the center of the channel. Lombok Strait connects waters which Indonesia claims as its "internal waters" with open seas in the Indian Ocean.

## 4. Ombai and Wetar Straits

Ombai and Wetar Straits are a continuous stretch of water connecting the Banda Sea and the Savu Sea between the Portuguese island of Timor and the Indonesian islands of Wetar for the Wetar Strait and Alor for the Ombai Strait. The Wetar Strait has a minimum width of 27 miles and a

# THE INDONESIAN STRAITS



minimum depth of nearly 8000 feet. Ombai Strait has a minimum width of 17 miles and a minimum depth of over 8300 feet. The narrowest section of the entire waterway, though, lies in the section of the passage which is the dividing point between the two straits. At that point, the Indonesian island of Kambung lies just 13 miles north of Portuguese Timor and the minimum depth in that area is nearly 5500 feet. Although the eastern end of Timor is a Portuguese possession, the western end is Indonesian and the seas at both ends of the Ombai and Wetar Straits are claimed by Indonesia as internal waters.

#### B. REGIME OF THE INDONESIAN STRAITS

The regime of the Indonesian straits is shrouded in difference of opinion. Because of the uncertainties concerning the Indonesian straits and depending on the advantages a nation intends to derive from use of the straits, different nations claim different legal regimes apply to the Indonesian straits.

Nations which look for advantages in right of passage will desire application of traditional law which provides a territorial sea of three miles. A three mile territorial sea would leave a channel of "high seas" waters wherein all ships could enjoy unrestricted navigation through all the Indonesian straits.

The coastal nation desiring control over maritime activity in adjacent waters might make some unilateral legal

claim and attempt to displace traditional law. The aspiration of a nation making such a claim would be that lack of opposition or only minor resistance to the legal claim might, over time, legitimate the claim to the extent that it would enter the realm of traditional law. Even if this aspiration were not met, a unilateral claim would give a nation a bargaining position from which it might obtain a better position, through compromise, than it might expect under traditional or conventional law.

Two legal events have occurred which demonstrate that the coastal states desire to increase their control over ships transiting the Indonesian straits and that they desire to replace the traditional law of the sea. The first is Indonesia's "Archipelago Doctrine." (23:38-42) The second is a twelve-mile territorial sea claim by Indonesia and Malaysia and an accompanying claim to control over the right of ships to transit Malacca. (26:23)

According to the Archipelago Doctrine, the waters within a baseline surrounding the Indonesian islands are claimed to be Indonesian internal waters. The word "archipelago" was originally the name given to the Aegean Sea but it was later used as the term to describe the group of islands in the Aegean. The word has now come to mean any cluster of islands which may be considered as a whole. On 13 December 1957, the Indonesian government declared that the group of Indonesian islands would be considered an entity or "archipelago." (Appendix I) The Archipelago Doctrine is

supported by precedents in the archipelago claims of Denmark, Norway, and the Philippine Islands. The Soviet Union supported the Indonesian claim as being in accordance with the rules of international law. (28:39)

The position was again presented at the Caracas Law of the Sea Conference in 1974 by Fiji, Indonesia, Mauritius, and the Philippine Islands. The four island nations presented the following proposal:

1. An archipelagic State, whose component islands and other natural features form an intrinsic geographical, economic and political entity and historically have or may have been regarded as such, may draw straight baselines connecting the outermost islands and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic State is, or may be determined.

2. The waters within the baselines, regardless of their depth or distance from the coast, the seabed and the subsoil thereof and the superjacent airspace as well as all their resources belong to and are subject to the sovereignty of the archipelagic State. (33:317)

The proposal was endorsed by the Organization of African States, Uruguay, Ecuador, Panama, and Peru.

The archipelago concept could affect Sunda, Lombok, Ombai, and Wetar Straits. The effect of the "Archipelago Doctrine" would be that these straits would be considered within Indonesian internal waters which would mean that passage of the straits would be solely at the discretion of the Indonesian government. Although the original Indonesian declaration stated ". . . freedom of navigation solely at the discretion of Indonesia," the Indonesian representative to the Law of the Sea Conference in Geneva, 1958, stated

his country chose to permit freedom of navigation provided that it did not endanger Indonesia's security or damage its interests." (26:27) The concept was implemented by a Government Regulation of 18 February 1960 and the declaration allowed innocent passage to foreign vessels passing through Indonesian internal waters but it also stated that the innocent passage would be regulated by Government Ordinance. (28:39) The Indonesian government requires prior notification and authorization for transit of warships through its internal waters unless normal shipping routes are used. Informal notification is acceptable to the Indonesian government and no specific advance time period is required. (28:42)

The second attempt to regulate the regime of the Indonesian straits was a joint action by Indonesia and Malaysia in November 1971. Until that time, the Strait of Malacca had been considered an international waterway. Then, with each nation claiming a twelve-mile limit to territorial waters and their territorial waters overlapping in the narrow section of the Strait, Indonesia and Malaysia proclaimed joint ownership of the Strait of Malacca. The overlapping boundaries gave the two nations a legal basis for claiming Malacca as their joint property. In March, 1972, Indonesia and Malaysia issued a statement which confirmed their previous claim to the Strait of Malacca. They declared that the Strait would remain open for "innocent passage" of normal sea traffic. (15:25)

A nation, such as Indonesia, interested in controlling passage prefers to claim a broader territorial sea, thereby putting straits within territorial waters, and then apply conventional law, embodied in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, which applies innocent passage to ships transiting territorial waters. Passage is considered innocent so long as it is not prejudicial to the peace, good order, or security of the coastal State. Innocent passage means navigation through the territorial sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters. Ships may stop and anchor if the actions are incidental to ordinary navigation or necessitated by distress. Innocent passage requires submarines to travel on the surface and to show their flags. A problem with innocent passage is that conventional law leaves "prejudicial passage" and "security threat" to be determined by the coastal State so that a coastal State may actually have a greater control over its territorial waters than the superficial provisions of innocent passage might imply since prejudice and threat may be judged by the different standards of different nations and the standards need not be applied impartially.

The Indonesian and Malaysian governments claimed two exceptions to the rule of innocent passage. First they barred passage of all foreign tankers over 200,000 deadweight tons as a measure against pollution. (15:23) This restriction

was not enforced because Japan agreed to help install additional navigational aids in the Malacca Strait in return for the right for Japanese supertankers of greater bulk to use the Strait. Nevertheless, ships larger than 300,000 deadweight tons normally use alternate routes. The fear of pollution proved prophetic, though, when the Japanese 237,698 ton supertanker SHOWA MARU ran aground in Indonesian waters in the narrow part of the Strait on 6 January 1975 and leaked a ten-mile-long oil slick into the Strait of Malacca.

The second claimed exception to innocent passage of Malacca was that foreign warships could use the Strait only after prior consultation and with authorization of the governments owning the territory along the intended route. The Soviet government protested vigorously. (15:23) Authorization prior to warships transiting through territorial waters in international straits is in conflict with the customary law of the sea, is not required by the Convention on the Territorial Sea and the Contiguous Zone, and is contrary to the 1949 report of the International Court of Justice in the Corfu Channel Case which stated, ". . . States in time of peace have a right to send their warships through straits used for international navigation between two parts of the high seas without the previous authorization of a coastal State, provided that the passage is innocent." (30:30-31) Nevertheless, Indonesia's claim gained credibility in December, 1971, when USS ENTERPRISE and her task group transited the Strait of Malacca enroute

to the Bay of Bengal during the Indo-Pakistani War. Adam Malik, the Indonesian Foreign Minister, "told reporters that all foreign warships wanting to pass through the Straits must give advance notice to Malaysia and Indonesia and stated that the Commander of the U.S. Seventh Fleet had given advance notice. He also said that he was sure Russian ships would conform with the Indonesian requirement." (30:29)

The Archipelago Doctrine claim and the claimed regime for the Strait of Malacca are not based on traditional international law and these claims are disputed by many nations. Nevertheless, neither the Indonesian government nor the Malaysian government have relented to these counter claims. The Soviet attitude toward these claims is considered in Sections 5 and 6.

#### C. SOVIET NAVAL TRANSITS

The Soviet Navy uses Indonesian straits for transit from Pacific Fleet bases to the Indian Ocean. After the Mediterranean Sea, the largest out-of-area Soviet naval commitment is in the Indian Ocean. For this purpose, the Strait of Malacca is most convenient and it is the route used by Soviet naval shipping. The Strait is deep enough for passage of the largest Pacific Fleet naval ship and it provides the shortest route from Pacific Fleet ports to the Indian Ocean area. The two disadvantages to Soviet naval ships using Malacca are the claim that transit authorization must be granted and that only innocent passage is permitted which means that Soviet submarines must transit the Strait on the surface.

Sunda and Lombok Straits would be satisfactory routes because they are comparatively very deep and easy to navigate. Transit of these straits causes added disadvantages, though. The routes through Sunda or Lombok are about 1,200 miles longer than the route through Malacca. Additionally, the Sunda and Lombok routes require travel through waters over which Indonesia claims jurisdiction as internal waters. The transits would be at the pleasure of the Indonesian government and the ships would be required to comply with Indonesian law. Since the abortive Indonesian Communist coup of September 1965, Soviet/Indonesian relations have been cool and the Indonesian government has shifted to a pro-West inclination. The Soviet government is undoubtedly hesitant to tempt Indonesian jurisdiction when it is not necessary or when it is risky. The sea lanes through the Indonesian archipelago are suitable for submerged transit of submarines where Malacca is marginal. Nevertheless, the poor relations between Indonesia and the Soviet Union could lead to an embarrassing situation if a Soviet submarine were detected and prosecuted by Indonesian naval vessels while attempting a surreptitious passage through the archipelago. Soviet naval ships would not normally use the routes through Indonesian internal waters to Sunda and Lombok Straits.

Ombai and Wetar Straits are completely impractical for navigation by Soviet naval ships or even Soviet merchant ships. The route has the same disadvantages as Sunda and

Lombok Straits and, in addition, the passage is a route leading from Indonesian internal waters to Indonesian internal waters and it is an inconvenient, out-of-the-way route of no practical significance. The route would not be used by Soviet naval shipping.

A glance at the Indonesian straits quickly reveals that Malacca is of great importance because of the Soviet naval commitment in the Indian Ocean. The closure of the Suez Canal increased the importance of Malacca because the closure meant the most efficient way for the Soviet Navy to send ships into the Indian Ocean was to use its Pacific Fleet which made Malacca the primary route.

The other straits pale in comparison. No other route is as convenient and all other Indonesian straits are under greater control of the Indonesian government than is the Strait of Malacca. That means that Malacca is both the best route and that it is the route by which Soviet naval shipping is most likely to have access between the Indian Ocean and the South China Sea. While the Sunda and Lombok Straits might rate some consideration as alternate routes if the Soviet Navy were to station large ships in the Pacific Fleet, Ombai and Wetar Straits could be of no practical use to the Soviet Navy. The remainder of this chapter will consider only the Strait of Malacca as the Indonesian strait used by the Soviet Navy.

## D. SOVIET NAVAL TRANSITS RELATED TO SOVIET NAVAL MISSIONS

### 1. Strategic Mission

The Strait of Malacca would be of importance if the Soviet Navy were required to send ballistic-missile-firing submarines from the Pacific Fleet into the Indian Ocean. The necessity for such a transit is not likely, though, because there are no countries near the littoral of the Indian Ocean which pose a threat to the Soviet Union and which cannot be deterred by Soviet strategic submarines on station in either the Atlantic or Pacific Oceans. With the introduction of the Delta Class Soviet submarine carrying the SS-N-8 missile, long-distance deterrence became a Soviet naval capability. (25:153) The only practical reasons that a Soviet strategic submarine might want to enter the Indian Ocean would be the possibility of increasing accuracy by decreasing the range to an Indian Ocean target or to complicate the antisubmarine warfare problem of an enemy by widening the locations from which a missile might be fired at that enemy. Neither option has merit when the cost is revealing the location of a Soviet strategic submarine when passing through the Strait of Malacca or through some alternate narrow waterway. Accuracy is not the only consideration when deterrence is practiced and the antisubmarine warfare problem is sufficiently complex when the entire Atlantic and Pacific Oceans are available as hiding places for Soviet submarines.

## 2. Defense of Homeland

Defense of the Soviet homeland is a mission of Soviet naval ships transiting the Strait of Malacca in that the Soviet Navy might be able to strike at an Indian Ocean nation which might launch an attack against Soviet territory or in that it might locate and destroy United States submarines patrolling the Indian Ocean on a strategic mission against the Soviet Union. The power of the Soviet Navy could intimidate an Indian Ocean nation which might have attacked against the Soviet Union as one of its possible national objectives. While this remains a possibility, the probability of an Indian Ocean nation launching an attack against the Soviet Union is sufficiently small so as to remove it from any immediate practical consideration. The use of Soviet naval surface ships and attack submarines against United States submarines is a realistic mission, though, because the Indian Ocean provides a close patrol area from which the Soviet Union is vulnerable to a missile attack launched at its industrial areas. The attack submarine in a trailing position would be especially useful in defending Soviet territory against a missile attack by United States submarines patrolling the Indian Ocean.

## 3. Naval Presence

The most important use the Soviet Navy makes of the Strait of Malacca is to send ships from the Pacific Fleet into the Indian Ocean for the purpose of maintaining a naval presence and, thereby, exerting influence for achieving

foreign policy objectives of the Soviet government. A Soviet naval presence in the Indian Ocean began in 1968 when Soviet naval ships spent 1,800 ship-days there and that presence grew steadily increasing to 8,800 ship operating-days by 1972. (these figures include noncombatants such as hydrographic research vessels ) (2:13)

At one time, the Indian Ocean was a British lake but, as England's power waned, the British withdrew from the Indian Ocean area leaving a power vacuum. Before the withdrawal, the Soviet Union had been a strong land power north of the Indian Ocean littoral but its influence had been offset by British seapower. After the British withdrawal, the Soviet Union was presented with the opportunity to assert its power by filling the British vacuum and of becoming the undisputed "visible" power to most of Asia and Africa. The Soviet Navy is now the most formidable power seen from the Indian Ocean littoral nations. It is a force that is capable of many activities which might be advantageous in promoting the Soviet interests. The force might be used for direct intervention in local conflicts, it can interdict supply routes from the Middle East to Europe, Japan, and the United States, it can monitor and control access to the Suez Canal after it is reopened, and it is a visible reminder that the Soviet Union can protect its own interests and those of its Indian Ocean friends. These capabilities enhance the

prestige of the Soviet Union and place the Soviets in a stronger position to compete for political influence among Indian Ocean nations.

Because of the closure of the Suez Canal, considerable transit time is required for ships to transit from the Soviet Naval Fleet areas at the White/Barents Sea, Baltic Sea, or Black Sea. The fleet which can most easily support a deployment to the Indian Ocean is the Pacific Fleet. Ships, usually from Vladivostok, transit through the Strait of Malacca as the most convenient route for the deployment.

#### 4. Protection of Economic Interests

The Soviet Union does have economic interest in the Indian Ocean area since most of the Indian Ocean nations, except for those of East Africa, are trading partners of the Soviet Union. (43:777) The Soviet Navy should, then, be interested in maintaining the security of the sea routes used in transferring commerce between the Soviet Union and the Indian Ocean trading nations. Nevertheless, this apparent economic interest might not be so great as it appears and what appears to be an economic interest might actually be a political interest.

The Indian Ocean trading partners of the Soviet Union must be considered "underdeveloped nations." They are generally rich in natural resources but do not have the capability to produce sophisticated manufactured products. The Soviet Union is also rich in natural resources and, although the Soviets must import some raw materials, its important

imports are technology, the products of technology, and food which are scarce along the Indian Ocean littoral. (43:778-779) The transactions between the Soviet Union and the Indian Ocean nations must be other than an economic necessity where Soviet interest is concerned. The remaining purpose for those transactions is political in that they are for the same purpose as naval presence in achieving the foreign policy goals of the Soviet government.

Even if raw materials from Indian Ocean nations were important to the economy of the Soviet Union, the Strait of Malacca would be of minimal importance to trade between the Indian Ocean nations and the Soviet Union. Malacca connects the Indian Ocean with a non-industrial area of the Soviet Union. Raw materials delivered to the East Russian Siberia area would still have to be transported thousands of miles by rail to arrive in the Soviet industrial areas. Commerce between the Soviet Union and Indian Ocean nations would travel either over land or around Africa for delivery to the Soviet industrial areas on the Black Sea and the Baltic Sea.

The resulting situation is that trade between the Soviet Union and Indian Ocean nations is probably not of economic significance to the Soviet Union but would fit more appropriately under the mission of "presence" and, even if the commerce were economically significant to the Soviet Union, the Strait of Malacca would not be an important water route to Soviet industrial areas. Protection of economic

interest is not a major objective of Soviet naval ships transiting the Strait of Malacca.

#### E. ALTERNATIVE ROUTES

As an alternative to transiting Malacca for accomplishing its Indian Ocean mission, the Soviet Navy may either send ships from another of its naval fleet areas or it may travel another sea route between the Pacific Fleet area and the Indian Ocean.

If naval ships were sent into the Indian Ocean from the North, Baltic, or Black Sea Fleets, the trip would be longer than alternate routes from the Pacific Fleet and it would mean an added burden to the operating schedules of ships from the fleet chosen to support the commitment. After the Suez Canal is reopened, the situation will change since ships from the Black Sea Fleet will be closer to the Indian Ocean than ships from the Pacific Fleet. Then ships from the Black Sea Fleet will probably begin to augment the Indian Ocean Force.

A problem in relying on ships from other fleets to fill the Indian Ocean commitment is that the best routes from all other fleet areas require transits through international straits which are now overlapped by territorial waters or would be overlapped by territorial waters if the standard limit to territorial waters were established at 12 miles. The only route free of those straits would be from the North Fleet area, south through the Atlantic Ocean, and

around the southern tip of Africa into the Indian Ocean. That is the longest of all routes. The problem caused by these straits is that the circumstances concerning Malacca are similar to the other straits through which passage would be required and, if the Soviet Navy were legally prohibited from using Malacca for transit of warships, the same restriction might be applied to the other international straits so that they might not be reliable for passage if Malacca is closed.

If Malacca is closed, the other alternatives would be sea lanes in the vicinity of Malacca. Because of Indonesia's "Archipelago Doctrine," Indonesia would have a better legal position in closing its internal straits than in closing Malacca so Sunda, Lombok, Ombai, and Wetar would rate no consideration as alternate routes to Malacca. This leaves just two sea routes. One route is to the north of Australia and the other is to the south of Australia.

North of Australia, ships would travel the Torres Strait between Cape York, Australia, and New Guinea which avoids the Indonesian archipelago. The route is well marked but it is a tortuous passage with a limiting depth of 37 feet established by the Torres Strait Pilots Association. (26:31) The route is sufficiently deep for the passage of any ship in the Soviet Pacific Fleet but the route is difficult and lengthy so that it is not a desirable route. Because the

channel is narrow and long, it could be easily closed by either natural or man made phenomena.

If Soviet naval ships were to travel south of Australia, the route would pass through the Soloman Islands, the Coral Sea, and the Tasman Sea before turning westward to proceed into the Indian Ocean. This adds about 7,000 miles to the distance which would be traveled by transiting Malacca. The route is avoided by shipping because of the added distance and because it contains many uncharted reefs and shoals. (16:14)

One more possibility for an alternate route to bypass Malacca would be created if a canal were constructed across the Kra Isthmus in the Malaysia peninsula. The idea has been a consideration for many years but there is no reason to believe that construction of a canal might occur in the near future. A canal on the Kra Isthmus could offer an unobstructed deep water route 900 miles shorter than the trip through Malacca. A Kra Canal would then be the best route for transiting between Soviet Pacific Fleet ports and the Indian Ocean but it would be regulated by the jurisdiction of Thailand and possibly other countries which might acquire treaty rights in return for construction assistance. The advantage to the Soviet Union would occur only if the Soviet Union were on good terms with the nation exercising jurisdiction over the Kra Canal.

## F. POSSIBLE REGIMES FOR THE STRAIT OF MALACCA

The claimed regime of the Strait of Malacca would be more restrictive than the traditional regime with traditional three-mile territorial seas and, under traditional law, all ships would be permitted free passage through the center, high seas channel of the Strait. If a twelve-mile territorial sea were established and under conventional law, ships would be granted at least innocent passage through Malacca. Indonesia and Malaysia, however, additionally require prior consultation and authorization before passage of warships is allowed. The Convention on the Territorial Sea and the Contiguous Zone states, "There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas . . ." The Soviet Union favors free passage of international straits but should at least comply with the conventional agreement allowing only innocent passage through territorial waters where the requirement is legitimate.

The Soviets also object to prior consultation and authorization before warships may transit the straits. (15:23) This is inconsistent with the policy established in the Soviet Manual of International Maritime Law which states, "With regard to innocent passage of warships through foreign territorial seas, some States adhere to the authorization before foreign warships may call in the territorial sea of another State . . ." "The absence of uniformity in the

practice of states constitutes irrefutable proof that the so-called 'right of innocent passage' of warships cannot be regarded as a universally-recognized rule of international law." "Foreign warships and merchant vessels must observe the rules and laws of coastal States with respect to navigation and transport." (1:23)

The Soviet position is hypocritical in that while, on one hand, the Soviet Union claims a twelve-mile territorial sea and, in her literature, supports Indonesia's position requiring notification, on the other hand, the Soviet Union has objected to the result of Indonesia's twelve-mile claim which has threatened the Soviet Navy's freedom of passage in the Malacca Strait.

Indonesia and Malaysia still insist on the authorization procedure. Although the situations are not exactly the same, precedents might be found in some of the procedures for passage of the Danish and Turkish Straits. If the Soviet Union or some other power does not pressure Indonesia and Malaysia into relencing the authorization requirement, the requirement could become legally unassailable as customary law.

While the claimed requirements for passage of warships through the Strait of Malacca are already in excess either of traditional law of the sea or of the regime provided by the Convention on the Territorial Sea and the Contiguous Zone, a possibility still remains that further restrictions might be imposed. The granting of innocent passage for

merchant ships will probably not change because merchant shipping is too important to Malaysia and Indonesia to risk tampering with the agreement permitting navigation and other countries would undoubtedly reply in a manner contrary to the interest of the Strait States. Nevertheless, further restriction might be attempted against the transit of warships.

Reasons for an attempt to further restrict passage of warships through the Strait of Malacca could be either worsened relations between the Strait States and the Soviet Union or United States, the urging of Indian Ocean nations to prevent warships of outside powers from entering the Indian Ocean for fear that those nations will control the politics of littoral nations, or as a means of obtaining financing for dredging and maintaining the navigability of the channel. These three changes are all real possibilities. Indonesia would probably react to even the hint of a Communist threat because memories of the 1965 coup attempt are still fresh. One way Indonesia could obtain a position for bargaining with the Soviet Union is by threatening or announcing further restrictions to the passage of warships through the Strait of Malacca. This position might be supported by some of the Indian Ocean nations whose power is reduced by the presence of warships of powerful nations. A charge for passage of warships and merchant ships could be decided upon because neither Indonesia nor Malaysia are

financially capable of improving the Malacca channel or properly improving and maintaining its aids to navigation.

#### G. SOVIET REACTION

If a charge were levied upon ships transiting the Strait of Malacca, the Soviet government would probably object to the practice for both merchant and naval ships. The Convention on the Territorial Sea and Contiguous Zone permits charges to be levied on foreign merchant ships passing through the territorial sea for specific services rendered to the ship. Bending this regulation to require payment from all ships transiting Malacca in order to upgrade the channel or install and maintain navigation aids might receive some consideration as a legitimate cause since an accident which would block the shipping channel would be disadvantageous to all nations using the Strait. All nations using the Strait would benefit from the improvement of the channel but a toll would be a completely unacceptable method of financing improvements because no nation would choose to legitimate any such practice which might later become traditional law and which might prove to be a dangerous precedent for the consideration of other Strait States. To avoid these distasteful results but to ensure maintenance and navigability of the Malacca channel, nations whose ships ply the Malacca route would probably reply to a toll proposal with a formal or informal offer of financial aid which would

set no precedent and which would enable the Strait States to maintain the channel properly.

Closure of Malacca to the passage of warships would not receive so considerate a reaction. The alternate routes in lieu of the Strait of Malacca present a real hardship to the Soviet Navy in achieving its goal in the Indian Ocean. The added transit time means that, in order to maintain the same size force in the Indian Ocean, a larger number of ships would be required in the Pacific Fleet or time between deployments would be shortened. Increasing the number of ships is an added expense to construction, facilities, maintenance, and manpower. Shortening time between deployments takes time away from training and maintenance so that readiness would be degraded. Additionally, acceptance of closure of the Strait of Malacca to the passage of warships would be a dangerous precedent and the Soviet Navy would have to expect threats of closure of the Turkish and Danish Straits if they were to accept closure of Malacca. With the undoubted support of all maritime nations, the Soviet Union would continue to send its warships through the Strait of Malacca when transiting between the Pacific Ocean and the Indian Ocean.

## VI. CONCLUSION

From analysis of individual sets of straits, specific judgments are possible in the areas of Soviet naval transits, transits related to Soviet naval missions, possible alternate routes, possible changes to legal regimes, and probable Soviet reactions. These findings should lead to a conclusion concerning the significance of international straits to Soviet naval operations and concerning the influence of the Soviet Navy in determining the Soviet position on the proper legal status of international straits.

### A. SOVIET NAVAL TRANSITS

The Soviet Navy transits international straits enroute to many of its operating areas and, in other cases, to reach open ocean areas. Right of passage through international straits, then, is important to the Soviet Navy.

The Soviet Pacific Fleet uses Sea of Japan straits for its ships to transit from its Sea of Japan bases, mainly from Vladivostok, to open ocean areas in the Pacific and to the Indian Ocean. For transiting to the Indian Ocean, Soviet naval ships also use Indonesian Straits. The Soviet Black Sea Fleet must pass through the Turkish Straits in order to leave the Black Sea and, once clear of the Black Sea, would still be required to transit either the Suez Canal or the Strait of Gibraltar if its ships were to depart the Mediterranean enroute to the Indian Ocean or the Atlantic

Ocean. Ships stationed in the Baltic Sea Fleet must transit either the Danish Straits or the Kiel Canal if they are to transit out of the Baltic into the Pacific Ocean.

The Soviet Union has one fleet area which is not restricted by narrow straits. The North Fleet area, in the vicinity of Murmansk, offers relatively unimpeded access to the Atlantic Ocean. The Murmansk environment is uncomfortably frigid but an offshoot of the gulf stream keeps the sea lanes open with only occasional help from ice breakers.

Returning to the Pacific Fleet, the naval base on the Kamchatka Peninsula, at Petropavlovsk, is unimpeded by narrow straits but it is hampered by icing conditions. The bases at Petropavlovsk and Murmansk, then, are the only major bases from which Soviet naval ships may deploy without fear that their transits may be impeded by a requirement to pass through a narrow strait.

## B. SOVIET NAVAL TRANSITS RELATED TO SOVIET NAVAL MISSIONS

### 1. Strategic Mission

Soviet ballistic-missile-firing submarines are not required to pass through narrow straits to reach a station in either the Atlantic or Pacific Ocean. Soviet offensive strategic submarines are based at Murmansk and Petropavlovsk from where they have unimpeded access to open oceans. If these submarines were required to travel into the Mediterranean Sea or the Indian Ocean, straits would lie on their best transit routes. These transits are not necessary,

however, because the newest submarine-launched ballistic missile has a range in excess of 4,000 miles which allows a submarine to deter any potential aggressor without having to pass through a narrow waterway in order to be within firing range.

## 2. Defense of the Homeland

A passive defense of the Soviet homeland would not require the Soviet Navy to transit narrow straits nor would it require its ships to leave port. Now that an enemy has the capability of striking at the Soviet homeland from extended ranges, however, a passive defense is not adequate and the Soviet Navy must range far from Soviet shores in order to properly defend against attack from the sea. This would include both surface ships and attack submarines to combat carrier strike forces and offensive strategic submarines.

For proper defense in the Pacific, the Sea of Japan straits must remain open for passage of Soviet naval ships because attack against the Soviet Union could be launched from outside the Sea of Japan and it would have to be countered by ships transiting through the Sea of Japan straits. Pacific Fleet ships also need to pass through narrow straits to transit to the Indian Ocean to establish a force which could counter a possible surface or subsurface threat which could easily reach vital areas of the Soviet Union if an attack were launched from the northwestern corner of the Indian Ocean.

To defend against United States surface and submarine threats in the Mediterranean Sea, Soviet naval surface ships must transit out of the Black Sea through the Turkish Straits. Defensive Soviet submarines from the North Fleet travel into the Mediterranean Sea via the Strait of Gibraltar.

The exits from the North Fleet and the Baltic Fleet areas are so close that Baltic Fleet ships should not be required to transit out of the Baltic Sea to perform a defensive mission which could be performed as easily and in as timely a manner by a larger, newer, better prepared North Fleet. Only a major, all-out defensive effort in the Atlantic Ocean would cause Baltic Fleet ships to deploy outside their home waters and, in that case, right of passage through narrow waterways would be a requirement.

### 3. Naval Presence

In order for the Soviet Navy to accomplish an objective of deploying as a representative of Soviet governmental policy, its surface ships need to transit narrow waterways. This is especially true in the cases of ships deploying into the Mediterranean Sea and the Indian Ocean and, to some extent, to the Pacific Ocean, the West African Coast, and the Caribbean sea.

Ships deploying to the Mediterranean Sea are normally members of the Black Sea Fleet and must transit the Turkish Straits to reach their operating areas. If the Black Sea Fleet ships are to be used in the Atlantic Ocean,

they will run the gauntlet of the Turkish Straits, the Mediterranean Sea enclosure, and the Strait of Gibraltar.

The Soviet naval force in the Indian Ocean is supported by the Pacific Fleet and its optimal routes proceed through Indonesian straits. After the Suez Canal is reopened, the Black Sea Fleet ships will be nearer the Indian Ocean than Pacific Fleet ships. If Black Sea Fleet ships begin deploying to the Indian Ocean, they will be required to transit both the Turkish Straits and the Suez Canal to reach their stations.

To a lesser extent, a Soviet naval presence is maintained in Pacific Ocean areas by ships transiting the Sea of Japan straits. Another minimal presence could be provided in the Caribbean and the West African coast by Black Sea Fleet ships transiting the Turkish Straits and the Strait of Gibraltar or by Baltic Fleet ships transiting the Danish Straits. A naval presence is normally maintained, though, by North Fleet ships which do not experience such restricted passages enroute to their destinations.

#### 4. Protection of Economic Interests

Soviet naval ships might require access to international straits in order to keep them open for passage of Soviet merchant vessels or they might need to pass through one strait in order to transit to another strait where Soviet merchant ships have an economic interest in passage of that second strait. It is improbable that any nation would close an international strait to the passage of

merchant ships, though, unless the coastal nation were at war with the nation whose merchant ships required passage, the coastal nation feared pollution from the merchant ship, or some specific situation short of war prompted a limited quarantine such as the United States Navy performed in an open-ocean area against ships carrying missiles into Cuba in 1962. In any of these cases, a strong Soviet Navy might be able to open narrow waterways for the passage of Soviet merchant ships or ships carrying Soviet exports or imports.

The Sea of Japan straits might need to be opened if Japan were to attempt to prevent the Soviets from carrying on seaborne commerce with the Soviet Far East. The sea lines of communication are important because the only alternate supply route is the Trans-Siberian railroad which runs close to the Chinese border and could easily become an unreliable route. The Indonesian straits could also become important as a line of commercial communications between the Indian Ocean and the eastern Soviet Union.

The main Soviet industrial area must also be protected by maintaining commerce into the Baltic Sea and the Black Sea. This means ensuring passage of the Danish Straits, the Turkish Straits, and the Strait of Gibraltar. Suspension of merchant passage through any of these straits could be crippling to any Soviet industrial effort relying on imports for raw materials or on exports for markets.

### C. ALTERNATE ROUTES

Alternate routes exist in most cases where the Soviet Navy might be threatened with suspension of the passage of its ships through international straits. In the cases where no alternate routes exist, the mission of the ships normally transiting the closed strait could be performed by Soviet naval ships from another fleet area. While alternate routes or alternate means exist, development of new alternatives would be less satisfactory than presently used routes and methods.

In some cases, alternatives are already in use and have become normal operating procedures. An example is the case of offensive strategic submarines which the Soviet Navy stations in Petropavlovsk so that they will be located in areas from which they can deploy without a requirement to transit narrow straits where they would be expected to proceed on the surface which would ensure detection. To achieve the objective of access to open ocean without passage through straits, Soviet submarines are faced with the fiercer winter weather and more difficult lines of logistic support that exist on the Kamchatka Peninsula. They would not have to face these difficulties if they were satisfied with basing at Vladivostok which would require them to transit straits while exiting the Sea of Japan.

Another case is that the Soviet Navy is required to send logistic support to its Indian Ocean force from Pacific Fleet bases instead of the nearer Black Sea bases because of

the closure of the Suez Canal. The Suez closure also means that there is no possibility of conveniently sending ships from the Soviet Black Sea Fleet to reinforce the Indian Ocean force so that the best remaining procedure is to staff the Indian Ocean force with Pacific Fleet ships.

A third case where alternatives have been selected is the buildup of the North Fleet which is the largest Soviet fleet with the newest ships. This buildup was probably the result of a longer ice-free season in Murmansk and because ships stationed in the North Fleet do not pass through narrow straits enroute to open oceans as would be the case if Soviet naval ships from the Black Sea or Baltic Sea Fleets were to operate in the Atlantic Ocean. Even though straits are a problem, the Murmansk alternative might well have been chosen, though, since it is generally a more hospitable port than Black Sea or Baltic Sea ports solely on the bases of its milder climate. Ships from Murmansk still must pass through the relatively narrow Greenland-Iceland-United Kingdom Gap for access to the Atlantic Ocean.

While the Soviet Navy has tailored its forces to take best advantage of existing naval geography, any further changes to transit patterns would create a hardship to the performance of Soviet naval missions by either adding to the operational requirements of another Soviet fleet or extending transit time which decreases time available for ship maintenance, training, and time on station.

#### D. POSSIBLE LEGAL REGIMES

Change in a strait's legal regime could be created by either one of two methods: evolution of customary law or by changing conventional law. Either method could be equally valid but neither would be easily implemented.

Law could be changed by the simple acceptance or non-objection to a claim to law over a period of time. Then the claim would become established in traditional law. No seafaring nation with the strength to object would stand by idly and permit a restrictive claim to law to become legitimized and enter the realm of traditional law. On the other hand, a coastal nation's capability of controlling a narrow waterway in its territorial sea is hardly an insignificant factor and that capability to enforce a nation's will in its territorial waters could be enough to establish a new regime for an international strait. This situation does not apply presently to the Danish Straits or the Turkish Straits where agreements are already in force to regulate passage and presently it does not apply to the Sea of Japan straits where passage is not opposed by coastal states. Nevertheless, it could become significant in the case of the Indonesian straits where the coastal states are attempting to claim a regime which is not favorable to and not completely acceptable to the maritime nations whose ships use the straits.

A change to conventional law could be made by bilateral or multilateral agreements or compromises. A vehicle for accomplishing this type of change is an international

conference such as the Law of the Sea Conference which will reconvene at Geneva, Switzerland, in March, 1975. Agreement at this type of conference is difficult when national interests are at a great variance. The result, if one is possible, would likely be compromise.

In any event, a change to the regime of an international strait would probably produce a more restrictive regime. A less restrictive legal regime would be accompanied by a weakening in the bargaining possibilities for a coastal nation so that the coastal nation would undoubtedly object to the change. The currently accepted regimes of straits are entrenched in traditional law so that the coastal states certainly have precedent and support for resisting a weakening of their control over ships transiting straits where legal regimes are established.

While a coastal state will attempt to either maintain the current regime of an international strait or claim a more restrictive regime, a maritime nation which uses the strait will attempt at least to maintain the strait's current regime by preventing legitimization of more restrictive claims to law and will, if possible, claim or negotiate a more advantageous regime.

The Soviet Union, however, could expect any change to the regime of an international strait to be a change which is more restrictive to the passage of Soviet naval ships. Because of the possibility of reciprocal disadvantage by interruption of international commerce, unreasonable

restrictions to the passage of merchant ships during peacetime will probably not be attempted. Possibilities for changes to the regimes of international straits which the Soviet Union might expect would be imposition of tolls for passage, requirement for notification in advance of the passage of warships, limitations to the numbers or types of warships allowed to transit a strait, and prevention of the passage of warships through straits.

#### E. SOVIET REACTION

The Soviet reaction to a change in the regime of an international strait would depend on the method by which a change was implemented, on Soviet relations with the strait State, and on the effect of any new restriction to the Soviet Navy's capability of performing its missions. Because of the variety of possible political and geographic situations, the Soviet reaction could vary.

If a change were implemented by a multilateral agreement to which the Soviet Union would be signatory, the Soviet Union would abide by the new regime. If the Soviet Union were not signatory to the agreement, the Soviet Navy would probably be used to show that the Soviet Union was at variance with a more restrictive regime in order to discredit the agreement in an attempt to prevent its becoming internationally accepted. If a change were implemented by a claim to law, the Soviet Union would probably oppose any more restrictive regime for a strait and, if possible, would

disregard the claim in an attempt to prevent it from becoming traditional law through the act of international acceptance.

A State attempting to impose any more restrictive regime on an international strait might stand a better chance of receiving support from the Soviet Union if the change is small and negotiable or if the restrictive change is in the national interest of the Soviet Union. The State might be able to gain concessions in other areas by making a claim to law concerning the regime of its strait and then negotiating a compromise settlement which could remove the claimed regime or lessen its impact in general or to the Soviet Union's ships specifically. A State unable to negotiate with the Soviet Union would probably receive no support for legitimizing any part of a claim to law. A claim supporting the national interest of the Soviet Union would, of course, be unopposed.

Probably the most important determinant of a Soviet reaction to the changed regime of a strait would be the effect of the changed regime on the Soviet Navy's capability of performing its missions. Naval geography plays a large part in that effect. In some cases, restricting the passage of naval ships through international straits could prevent Soviet naval ships from deploying to areas where they are needed to defend the Soviet homeland but, in other cases, closure of an international strait to the passage of warships might prevent a possible enemy from gaining access to

an area from which the Soviet Union might be vulnerable to attack. In the first case, the Soviet Union would be forced to oppose a changed regime. In the second case, the Soviet Union most advantageously might show no reaction to a change in a strait's legal regime. The problem caused by this difference is that a restrictive regime, which might be in the best interest of the Soviet Union, could be used as precedent for restricting the regime of another strait which Soviet naval ships might be required to transit to promote Soviet interests or defend the Soviet homeland. The Soviet Union, therefore, cannot afford the luxury of a double standard when it takes a position on straits but must protect its most vital interest even though the price may be higher than if an optimal situation were to exist. The Soviet Union must oppose restrictions to the passage of naval ships through international straits.

Attempted imposition of tolls would be opposed by the Soviet Union because, even if possibly justified, it would set a dangerous precedent. If the requirement were clearly unreasonable, the Soviet Union would probably disregard it. If there were some reason, such as a requirement to acquire funds for maintenance of the strait's channel or aids to navigation, the Soviet Union would probably consider the cause just but negotiate some other method of achieving the same objective, such as foreign aid or physical assistance, in order to avoid a practice which could become accepted as traditional law and might be regretted later.

A claim requiring notification in advance of warship transit would meet with Soviet opposition. Announcement of military intentions reduces the impact of a naval force. The Soviet Union would necessarily continue to transit straits without notice to prevent legitimization of the claim. If the notification requirement were written into conventional law, which, in practicality, would require the assent of the Soviet Union, the Soviet Union would undoubtedly comply with the letter of the law but could violate the spirit of the law and, thereby, maintain its naval effectiveness by announcing many transits whether or not they really occur or were even planned to occur.

Limitation to the numbers of warships permitted to transit as a group through an international strait would meet a similar reaction. A claim to law would be opposed to prevent its legitimacy. If included in conventional law, such as the Montreux convention, the Soviet Union would probably comply. Unless the limitation were severe, though, its effect on Soviet peacetime operations would normally be minimal because Soviet forces do not need to transit in large groups to sustain their commitments in peacetime. In wartime, national interest would definitely determine naval policy and legal regimes would be a secondary consideration.

If a strait State were to claim suspension of passage for warships in international straits, the Soviet Union would protest and disregard the claim so long as the Soviet Union had the power to do so. In some areas, the Soviet

Union might receive some advantage from the closure of a strait, as discussed earlier, but this advantage would have to be foregone to prevent the establishment of a dangerous precedent which might later prove a disadvantage to the Soviet Navy.

Advantage would come to the Soviet Union if, for example, the Danish Strait or the Strait of Gibraltar were closed. If the Danish Straits were closed to the passage of warships and the regime of the Kiel Canal were similarly regulated, foreign warships, such as NATO forces, would be prevented from entering the Baltic Sea and the Soviet Union would then need only a large enough naval force in the Baltic to ensure Soviet domination over the relatively weak Baltic nations' forces. Soviet naval missions would not be degraded and surplus Baltic Fleet ships could be transferred to supplement other fleet areas.

If the Strait of Gibraltar were closed to warships, United States naval forces would be prevented from gaining access to the Mediterranean Sea from where they could easily launch an attack against Soviet territory. The large Soviet Mediterranean deployment would no longer be necessary. If Suez were to open, United States aircraft carriers would still not be able to enter the Mediterranean because of their size and offensive strategic submarines would only be able to enter the Mediterranean through a route by which their detection would be certain. Surplus Soviet naval forces from the Black Sea Fleet could, again, be redistributed to

augment other fleets. In this situation, even the closure of the Turkish Straits would not seriously degrade the missions of the Soviet Navy. If the Soviet Navy's ships were completely excluded from the Mediterranean Sea, Soviet merchant ships, under Soviet governmental direction, could adequately perform Soviet naval missions if a requirement for deploying to the Mediterranean in defense of the Soviet homeland were no longer necessary.

The Soviet Union, in effect, could realize the advantages of her long-espoused closed-sea doctrine if certain straits were closed. The effect would be the same but the method less overtly nationalistic. The Soviet Union cannot afford these advantages, though, because, as more nations call for expanded territorial seas, more straits become similarly susceptible to closure by application of the closure precedent. As the Soviet Union has expanded its seapower, it has become more vulnerable to the effects of restrictions to freedoms of ocean navigation. The Soviet Union must oppose any increased restriction to freedom of its naval ships to ply the seas in support of the Soviet government's objectives.

#### F. THE EFFECT OF INTERNATIONAL STRAITS

The interplay between Soviet naval operations and the legal regimes of international straits has had two effects. It has influenced Soviet naval operations and it has played a part in formulating the Soviet position on the law of the sea. The Soviet Union clearly has a purpose for its navy

in influencing other nations in support of Soviet policy. In order to maintain a naval force which can best represent Soviet intentions, the Soviet naval force must have the unlimited right to use the oceans. Any restriction to a naval ship's access to the seas reduces that ship's effectiveness. At the Law of the Sea Convention, the Soviet draft articles on straits used for international navigation are direct evidence of the influence of Soviet seapower on the decisions made by Soviet government leaders. That is a sign that the Soviet Navy is a major tool of Soviet foreign-policy makers and that the Soviet Navy has achieved increased status and its own identity among Soviet military forces.

#### 1. Soviet Naval Operations

International straits are part of the naval geography which has determined the composition of Soviet naval fleets and the location of naval ports. The North Fleet is the largest Soviet naval fleet. There are two possible reasons for this. First, the gulf stream keeps Murmansk relatively ice-free. Second, the North Fleet is the only fleet with direct access to the Atlantic Ocean without passing through narrow straits. For this second reason, the bulk of the Soviet ballistic-missile submarine force is stationed in the North Fleet. There are no ballistic-missile submarines stationed in the Baltic Sea or the Black Sea where they would be forced to transit through narrow straits for access to open oceans. The Baltic Fleet has been designed so that it can accomplish its mission without leaving the Baltic

enclosure. The Black Sea Fleet does little more than provide ships for the Mediterranean squadron and, at that, cannot supply submarines to the Mediterranean, is limited in transit possibilities, and must announce its transits because of the provisions of the Montreux Convention. The North Fleet, in a militarily superior position, has been given the capability of handling Atlantic Ocean operations with the possibility of being reinforced, if necessary, by ships from the Baltic Sea and Black Sea Fleets.

In the Pacific Ocean, the main effect of international straits on Soviet naval operations is that ballistic-missile-firing submarines are forced to deploy from the climatically severe Kamchatka Peninsula in order to avoid the probability of sure detection they would encounter if they deployed from the Sea of Japan and through narrow straits. If not for straits, there would be no need for the naval base at Petropavlovsk which is remote and must present a logistics problem.

The Indonesian straits are also a minor irritation for Soviet surface ships entering the Indian Ocean and a major irritation for any Soviet submarine which might desire to enter the Indian Ocean undetected. The effect of the Indonesian Straits must be minimal because the Soviet Union maintains a small force in the Indian Ocean which has experienced no apparent difficulty in transiting to its operating areas but a large increase in Soviet Indian Ocean activity could easily cause the Indonesian and Malaysian

governments to carry out their threats to control passage of warships through the Strait of Malacca which could affect the Soviet Navy by requiring it to use much longer routes to the Indian Ocean.

## 2. The Soviet Position on the Law of the Sea

While the Soviets propose that, "In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for purpose of transit through such straits, as they have on the high seas.", high-seas freedoms of transit are not really necessary to the performance of Soviet merchantmen, Soviet fishing vessels, Soviet research vessels, or any other Soviet ship excepting Soviet naval ships. Innocent passage, or some similar arrangement which allows a ship to proceed from its home port to its destination, is sufficient for all but naval vessels. The Soviet Navy's ships need high-seas freedoms in international straits so that Soviet submarines might transit straits submerged, Soviet surface ships might transit straits without giving advance notice which could delay reaction to a crisis or announce military intentions, and Soviet aircraft might freely fly over international straits or operate from ships transiting the straits.

Since a coastal nation determines whether a ship's purpose for transiting a strait is "innocent" or not, warships are particularly vulnerable, on the whim of a coastal nation, to being prevented from transiting a strait. Some coastal

nation, for example, might interpret the presence of a gun on a warship to be a danger to that nation and, on that basis, prohibit passage of warships through straits in its territorial waters. The mere presence of any other type of ship should not be cause for a coastal nation to perceive danger unless it was at war with the flag state. Being subject to any restriction to the transit of international straits presents ominous disadvantages to warships which would not threaten the operations of other types of ships. The Soviet position concerning international straits is tailored to meet the needs of its naval forces.

## APPENDIX A

### Policy of the United States with Respect to the Natural Resources of the Subsoil and Seabed of the Continental Shelf (Truman Proclamation)

"By the President of the United States of America

#### "A PROCLAMATION

"WHEREAS the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and

"WHEREAS its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilization is already practicable or will become so at an early date; and

"WHEREAS recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilization when and as development is undertaken; and

"WHEREAS it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the

Source: Churchill, Robin, S. Houston Lay, and Myron Nordquist. New Directions in the Law of the Sea - Documents. 2 Vols. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1973.

effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of the nature necessary for utilization of these resources;

"NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

"Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

"Done at the City of Washington this twenty-eighth day of September, in the year of our Lord nineteen hundred and forty-five, and of the Independence of the United States of America the one hundred and seventieth.

(SEAL)

HARRY S. TRUMAN

By the President:

Dean Acheson

Acting Secretary of State"

## APPENDIX B

### GENEVA CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE

The States Parties to this Convention

Have agreed as follows:

#### PART 1: Territorial Sea

##### SECTION 1. GENERAL

###### Article 1

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

###### Article II

The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

##### SECTION II. LIMITS OF THE TERRITORIAL SEA

###### Article III

Except where otherwise provided in these articles, 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.

Source: Brittin, Burdick H., and Liselotte B. Watson, International Law for Seagoing Officers. Annapolis, MD.: Naval Institute Press, 1972, pp. 343-350.

#### Article IV

1. In localities where the coast line is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.

3. Baselines shall not be drawn to and from low-tide elevations, unless light houses or similar installations which are permanently above sea level have been built on them.

4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by a long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

#### Article V

1. Waters on the landward side of the baseline of the

territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 14 to 23, shall exist in those waters.

#### Article VI

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

#### Article VII

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of these articles, a bay is a well marked indentation whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the

presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds twenty-four miles, a straight baseline of twenty-four miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight baseline system provided for in article 4 is applied.

#### Article VIII

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

#### Article IX

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the

territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

#### Article X

1. An island is a naturally-formed area of land, surrounded by water, which is above water at high-tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

#### Article XI

1. A low-tide elevation is a naturally-formed area of land which is surrounded by and above water at low-tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

#### Article XII

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is

equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

#### Article XIII

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

#### SECTION III. RIGHT OF INNOCENT PASSAGE

##### Sub-Section A. Rules Applicable to All Ships

#### Article XIV

1. Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or

are rendered necessary by force majeure or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

#### Article XV

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within its territorial sea.

#### Article XVI

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to those waters is subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination amongst foreign ships,

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. Such suspension shall take effect only after having been duly published.

4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

#### Article XVII

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

#### SUB-SECTION B. RULES APPLICABLE TO MERCHANT SHIPS

#### Article XVIII

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

#### Article XIX

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the

territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) If the consequences of the crime extend to the coastal State; or

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

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

#### Article XX

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The 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.

3. The provisions of the previous paragraph are without prejudice as to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

#### SUB-SECTION C. RULES APPLICABLE TO GOVERNMENT SHIPS OTHER THAN WARSHIPS

#### Article XXI

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

## Article XXII

1. The rules contained in sub-section A and in article 19 shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in the provisions referred to in the preceding paragraph, nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

### SUB-SECTION D. RULES APPLICABLE TO WARSHIPS

## Article XXIII

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

## PART II: CONTIGUOUS ZONE

### Article XXIV

1. In a zone of the high seas contiguous to its territorial sea, the coastal State may exercise the control necessary to:

(a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea;

(b) Punish infringement of the above regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.

## APPENDIX C

### GENEVA CONVENTION ON THE HIGH SEAS

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The States Parties to this Convention,

Desiring to codify the rules of international law relating to the high seas,

Recognizing that the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958, adopted the following provisions as generally declaratory of established principles of international law,

Have agreed as follows:

#### Article 1

The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State.

#### Article 2

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, inter alia, both for coastal and non-coastal States:

Source: Churchill, Robin, S. Houston Lay, and Myron Nordquist. New Directions in the Law of the Sea - Documents. 2 Vols. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1973.

- (1) Freedom of navigation;
- (2) Freedom of fishing;
- (3) Freedom to lay submarine cables and pipelines;
- (4) Freedom to fly over the high seas.

These freedoms, and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas.

### Article 3

1. In order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea. To this end States situated between the sea and a State having no sea-coast shall by common agreement with the latter, and in conformity with existing international conventions, accord:

(a) To the State having no sea-coast, on a basis of reciprocity, free transit through their territory; and

(b) To ships flying the flag of that State treatment equal to that accorded to their own ships, or to the ships of any other States, as regards access to seaports and the use of such ports.

2. States situated between the sea and a State having no sea-coast shall settle, by mutual agreement with the latter, and taking into account the rights of the coastal State or State of transit and the special conditions of the State having no sea-coast, all matters relating to freedom of transit and equal treatment in ports, in case such

States are not already parties to existing international conventions.

#### Article 4

Every State, whether coastal or not, has the right to sail ships under its flag on the high seas.

#### Article 5

1. Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

#### Article 6

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in these articles, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any

other State, and may be assimilated to a ship without nationality.

#### Article 7

The provisions of the preceding articles do not prejudice the question of ships employed on the official service of an inter-governmental organization flying the flag of the organization.

#### Article 8

1. Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

2. For the purposes of these articles, the term "warship" means a ship belonging to the naval forces of a State and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew who are under regular naval discipline.

#### Article 9

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

#### Article 10

1. Every State shall take such measures for ships under its flag as are necessary to ensure safety at sea with regard inter alia to:

(a) The use of signals, the maintenance of communications and the prevention of collisions;

(b) The manning of ships and labour conditions for crews taking into account the applicable international labour instruments;

(c) The construction, equipment and seaworthiness of ships.

2. In taking such measures each State is required to conform to generally accepted international standards and to take any steps which may be necessary to ensure their observance.

#### Article 11

1. In the event of a collision or of any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such persons except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or license shall alone be competent, after due legal process, to pronounce the withdrawal of such certificates, even if the holder is not a national of the State which issued them.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

#### Article 12

1. Every State shall require the master of a ship sailing under its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers,

(a) To render assistance to any person found at sea in danger of being lost;

(b) To proceed with all possible speed to the rescue of persons in distress if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(c) After a collision, to render assistance to the other ship, her crew and her passengers and, where possible, to inform the other ship of the name of his own ship, her port of registry and the nearest port at which she will call.

2. Every coastal State shall promote the establishment and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and -- where circumstances so require -- by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

#### Article 13

Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to

fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall ipso facto be free.

#### Article 14

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

#### Article 15

Piracy consists of any of the following acts:

- (1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  - (a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  - (b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or sub-paragraph 2 of this article.

#### Article 16

The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose

crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.

#### Article 17

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

#### Article 18

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

#### Article 19

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

## Article 20

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft, for any loss or damage caused by the seizure.

## Article 21

A seizure on account of piracy may only be carried out by warships or military aircraft, or other ships or aircraft on government service authorized to that effect.

## Article 22

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters a foreign merchant ship on the high seas is not justified in boarding her unless there is reasonable ground for suspecting:

- (a) That the ship is engaged in piracy; or
- (b) That the ship is engaged in the slave trade; or
- (c) That though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in sub-paragraphs (a), (b) and (c) above, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

#### Article 23

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters or the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone received the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 24 of the Convention on the Territorial Sea and the Contiguous Zone, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own country or of a third State.

3. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means

as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship are within the limits of the territorial sea, or as the case may be within the contiguous zone. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

4. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft on government service specially authorized to that effect.

5. Where hot pursuit is effected by an aircraft:

(a) The provisions of paragraph 1 to 3 of this article shall apply mutatis mutandis;

(b) The aircraft giving the order to stop must itself actively pursue the ship until a ship or aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest on the high seas that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

6. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an enquiry before the competent authorities may not be claimed solely on the ground that the ship, in

the course of its voyage, was escorted across a portion of the high seas, if the circumstances rendered this necessary.

7. Where a ship has been stopped or arrested on the high seas in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

#### Article 24

Every State shall draw up regulations to prevent pollution of the seas by the discharge of oil from ships or pipelines or resulting from the exploitation and exploration of the seabed and its subsoil, taking account of existing treaty provisions on the subject.

#### Article 25

1. Every State shall take measures to prevent pollution of the seas from the dumping of radio-active waste, taking into account any standards and regulations which may be formulated by the competent international organizations.

2. All States shall co-operate with the competent international organizations in taking measures for the prevention of pollution of the seas or air space above, resulting from any activities with radio-active materials or other harmful agents.

#### Article 26

1. All States shall be entitled to lay submarine cables and pipelines on the bed of the high seas.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf and the

exploitation of its natural resources, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. When laying such cables or pipelines the State in question shall pay due regard to cables or pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### Article 27

Every State shall take the necessary legislative measures to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable shall be a punishable offence. This provision shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

#### Article 28

Every State shall take the necessary legislative measures to provide that, if persons subject to its jurisdiction who are the owners of a cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause

a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

#### Article 29

Every State shall take the necessary legislative measures to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

#### Article 30

The provisions of this Convention shall not affect conventions or other international agreements already in force, as between States Parties to them.

#### Article 31

This Convention shall, until 31 October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention.

#### Article 32

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article 33

This Convention shall be open for accession by any States belonging to any of the categories mentioned in

article 31. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 34

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### Article 35

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

#### Article 36

The Secretary-General of the United Nations shall inform all States members of the United Nations and the other States referred to in article 31:

(a) Of signatures to this Convention and of the deposit

of instruments of ratification or accession, in accordance with articles 31, 32 and 33;

(b) Of the date on which this Convention will come into force, in accordance with article 34;

(c) Of requests for revision in accordance with article 35.

#### Article 37

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 31.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April one thousand nine hundred and fifty-eight.

## APPENDIX D

### The Soviet Concept of International Straits

Under present conditions, the legal regime of the most important sea straits has assumed exceptional urgency due to their great economic and strategic importance.

Over a period of many decades the great imperialist powers have been attempting to establish control over all international sea routes, in order to use them for important strategic maritime communications.

The Soviet Union and other peace-loving nations are striving to establish navigation through sea straits in order to expand economic and cultural relations between nations and to strengthen peace on earth.

The most critical sea straits have their own peculiarities from the standpoint of their legal status, navigating conditions and navigation procedures. Their strategic and economic importance also varies.

In international law it is normally assumed that straits which connect open seas and are of importance as world sea routes should be open for general use. Passage of merchant vessels and warships through these straits is not restricted, since their legal regime is based on the principle of

Source: Barabolya, P.D., et al., Manual of International Maritime Law, 2 Vols. Trans. Naval Intelligence Command. Moscow: Military Publishing House of the Ministry of Defense of the U.S.S.R., 1969.

freedom of the high seas. These straits include Gibraltar, Magellan, Taiwan, Malacca, Bab el Mandeb, etc.

The legal regime of this group of straits was established by the 1958 Geneva Convention on Territorial Seas and Contiguous Zones. According to Art. 16 of this Convention, the contiguous State has no right to prevent innocent passage of foreign ships through straits which serve international navigation, since they connect one area of the high seas with another or with the territorial waters of a foreign State. Consequently, straits through which the principal world sea routes pass must always be open to navigation.

In addition, there are straits which constitute the only suitable egress from inland seas into open water basins. A characteristic feature of these straits is the fact that they afford passage to the shores of a limited group of States. Thus the Black Sea straits lead to the shores of Bulgaria, Rumania, the USSR and Turkey. The Baltic straits (Oresund, Great Belt and Little Belt) lead to the shores of Denmark, West Germany, East Germany, Poland, the USSR, Finland and Sweden. The regime of the Black Sea and Baltic Sea straits is determined by multilateral conventions.

The straits leading into the Sea of Japan (Korea, La Perouse, Tsugaru) are similar to the aforementioned in importance and location.

APPENDIX E

UNION OF SOVIET SOCIALIST REPUBLICS:  
Draft Articles on Straits Used for  
International Navigation

UNITED NATIONS  
GENERAL ASSEMBLY

A/AC.138/SC.II/L.7  
25 July 1972

COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE  
OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION  
SUB-COMMITTEE II

Article . . .

1. In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for the purpose of transit through such straits, as they have on the high seas. Coastal States may, in the case of narrow straits, designate corridors suitable for transit by all ships through such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors shall include such channels.

2. The freedom of navigation provided for in this article, for the purpose of transit through the straits, shall be exercised in accordance with the following rules:

(a) Ships in transit through the straits shall take all

Source: Churchill, Robin, S. Houston Lay, and Myron Nordquist, New Directions in the Law of the Sea - Documents, 2 Vols. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1973.

necessary steps to avoid causing any threat to the security of the coastal States of the Straits, and in particular warships in transit through such straits shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, launch their aircraft, undertake hydrographical work or engage in other acts of a nature unrelated to the transit;

(b) Ships in transit through the straits shall strictly comply with the international rules concerning the prevention of collisions between ships or other accidents and, in straits where separate lanes are designated for the passage of ships in each direction, shall not cross the dividing line between the lanes. They shall also avoid making unnecessary manoeuvres;

(c) Ships in transit through the straits shall take precautionary measures to avoid causing pollution of the waters and coasts of the straits, or any other kind of damage to the coastal States of the straits;

(d) Liability for any damage which may be caused to the coastal States of the straits as a result of the transit of ships shall rest with the flag-State of the ship which has caused the damage or with juridical persons under its jurisdiction or acting on its behalf;

(e) No State shall be entitled to interrupt or stop the transit of ships through the straits, or engage therein in any acts which interfere with the transit of ships, or

require ships in transit to stop or communicate information of any kind.

3. The provisions of this article:

(a) shall apply to straits lying within the territorial waters of one or more coastal States;

(b) shall not affect the sovereign rights of the coastal States with respect to the surface, the sea-bed and the living and mineral resources of the straits;

(c) shall not affect the legal regime of straits through which transit is regulated by international agreements specifically relating to such straits.

Article . . .

1. In the case of straits over which the airspace is used for flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy the same freedom of overflight over such straits as they have in the airspace over the high seas. Coastal states may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio-communication with them.

2. The freedom of overflight by aircraft over the straits, as provided for in this article, shall be exercised in accordance with the following rules:

(a) Overflying aircraft shall take the necessary steps to keep within the boundaries of the corridors and at the altitudes designated by the coastal States for flights over

the straits, and to avoid overflying the territory of a coastal State, unless such overflight is provided for by the delimitation of the corridor designated by the coastal State;

(b) Overflying aircraft shall take all necessary steps to avoid causing any threat to the security of the coastal States, and in particular military aircraft shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, take aerial photographs, circle or dive down towards ships, take on fuel or engage in other acts of a nature unrelated to the overflight;

(c) Liability for any damage which may be caused to the coastal States as a result of the overflight of aircraft over the straits shall rest with the State to which the aircraft that has caused the damage belongs, or with Juridical persons under its jurisdiction or acting on its behalf;

(d) No State shall be entitled to interrupt or stop the overflight of foreign aircraft, in accordance with this article, in the airspace over the straits.

3. The provisions of this article:

(a) shall apply to flights by aircraft over straits lying within the territorial waters of one or more coastal States;

(b) shall not affect the legal regime of straits over which overflight is regulated by international agreements specifically relating to such straits.

## APPENDIX F

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

25 July 1951

#### 1. General Rules

##### 1

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

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

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

Source: Barabolya, P.D., et al., Manual of International Maritime Law. 2 Vols. Trans. Naval Intelligence Command. Moscow: Military Publishing House of the Ministry of Defense of the U.S.S.R., 1956, pp. 312-317.

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

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

Danish inland waters are defined in these Rules as harbors, harbor entrances, roadsteads, bays and fjords, as well as part of the Danish territorial sea within and between Danish islands, spits and reefs which are not permanently under water. In the Great Belt and The Sound, however, Danish inland territorial waters are confined to harbors, harbor entrances, bays, fjords and areas of the Great Belt and The Sound specifically indicated in the second part of this paragraph and in Sec. 4.

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

Copenhagen Roadstead, bounded on the north by a line from Taarbaek Harbor to the lighted and acoustic buoy to the east, along a line from the latter buoy to the northermost point of Saltholm, from there along the west coast of Saltholm to the southermost point of Saltholm; and bounded on the south by a line from the latter point to Drogden Lighthouse, from there to the "Aflandshage" marker, and from there along a line to the Sjaelland coast in the direction

of Vallensbaek Church on Sjaelland Island.

Helsingør port and roadstead, bounded by a  $56^{\circ} 03' N.$  from the coastline to the Lappegrund marker, from the Lappegrund marker to  $56^{\circ} 02' 6'' N., 12^{\circ} 38' 0'' E.$ , passing through this point to  $56^{\circ} 01' 7'' N.$ , a line from this point to  $56^{\circ} 01' N., 12^{\circ} 37' E.$ , and a parallel passing through this point to the coastline.

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

The East Jutland fjords.

The waters between the southern part of Jutland and the islands of Brandsø, Bågsø and Arø.

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

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

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

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

The West Jutland Fjords.

Odense Fjord.

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

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

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

Korsør Roadstead, bounded on the west by a meridian passing through Halsskov Odde, and on the south by  $55^{\circ} 19'$  N. Parallel.

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

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

Bays and fjords in the Faeroe Islands.

4

Closed waters consist of the following inland waters:

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

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

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

Guldborg Sund, bounded on the south by the line Hyllekrog Lighthouse-Gedser Lighthouse. Grønsund, bounded on the south-east by the following lines: a parallel between Hestehoved Lighthouse and  $12^{\circ} 14' 5''$  E., Meridian.

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

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

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

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

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

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

The waters between Aersø and Lyø and the waters between Lyø and Fyn, bounded on the west by the line Skjoldnaes Light-Hornenaes.

5

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

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

7

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

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

8

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

9

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

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

b) warships in distress.

10

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

11

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

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

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

## APPENDIX G

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

8 June 1951

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

#### PART I

##### Introductory Provisions

##### Article 1

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

Otherwise special provisions must be applied.

Source: Barabolya, P.D., et al., Manual of International Maritime Law. 2 Vols. Trans. Naval Intelligence Command. Moscow: Military Publishing House of the Ministry of Defense of the U.S.S.R., 1966, pp. 304-309.

## Article 2

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

## PART II

### Provisions Regarding Warships

## Article 6

1. Foreign warships may call:

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

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

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

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

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

c) ships in distress.

3. If a foreign military vessel in distress enters the territorial waters referred to in Para. 1,a or if such a ship stops or drops anchor in other Swedish territorial waters in a case provided for in Par. 1,b the master of the

ship must inform the commanding officer of the naval district in question of his arrival as quickly as possible. This information will be communicated to personnel of the pilot service, lighthouse tenders or customs or coastal inspection personnel. If this communication cannot be made, it must be conveyed immediately through diplomatic channels.

#### Article 7

Unless the authorization obtained through diplomatic channels indicates otherwise, a maximum of three warships of the same power may sojourn simultaneously in the same naval district, Swedish naval port, or in Swedish territorial waters not comprising part of any naval ports.

#### Article 8

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

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

#### Article 9

During visits to a Swedish port by a foreign warship, the commanding officer of the warship, in selecting an

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

#### Article 10

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

### PART IV

#### General Provisions

#### Article 14

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

end of the visit and, for warships carrying aircraft, the number and type, and, for aircraft equipped with radio sets, the call signs for these airplanes in the event of radio communication.

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

#### Article 15

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

#### Article 16

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

#### Article 17

1. The following activities are prohibited on Swedish territory: mapping or hydrographic surveys or measurements aboard foreign warships or military aircraft or by their crews, with the exception, however, of measurements which might be necessary to assure safety of the ship. It is also prohibited, without special permission, to fire guns, launch torpedoes or engage in other types of firing, mine-laying exercises, minesweeping or other underwater operations or landing exercises. Detachments may be sent ashore for military funerals, and only under the aforementioned conditions,

after permission is obtained from competent military officials.

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

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

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

#### Article 18

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

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

2. Foreign warships and military aircraft may be ordered, in accordance with Para. 1, to leave Swedish territory if the

King so decides, even if the circumstances indicated in  
Para. 1 do not obtain.

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

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

8 June 1951  
(Ministry of National Defense)

## APPENDIX H

### CONVENTION REGARDING THE REGIME OF THE STRAITS, SIGNED AT MONTREUX, JULY 20, 1936. (MONTREUX CONVENTION)

Article 1. -- The High Contracting Parties recognise and affirm the principle of freedom of transit and navigation by sea in the Straits.

The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.

#### SECTION I.--Merchant Vessels

Article 2. -- In time of peace, merchant vessels shall enjoy complete freedom of transit and navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except as provided in Article 3 below. No taxes or charges other than those authorised by Annex I to the present Convention shall be levied by the Turkish authorities on these vessels when passing in transit without calling at a port in the Straits.

In order to facilitate the collection of these taxes or charges merchant vessels passing through the Straits shall communicate to the officials at the stations referred to in Article 3 their name, nationality, tonnage, destination and last port of call (provenance).

Source: The Problem of the Turkish Straits, Department of State Publication 2752, Near Eastern Series 5, Washington: U.S. Government Printing Office, 1947, pp. 25-28.

Pilotage and towage remain optional.

Article 3. -- All ships entering the Straits by the Aegean Sea or by the Black Sea shall stop at a sanitary station near the entrance to the Straits for the purposes of the sanitary control prescribed by Turkish law within the framework of international sanitary regulations. This control, in the case of ships possessing a clean bill of health or presenting a declaration of health testifying that they do not fall within the scope of the provisions of the second paragraph of the present article, shall be carried out by day and by night with all possible speed, and the vessels in question shall not be required to make any other stop during their passage through the Straits.

Vessels which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox, or which have had such cases on board during the previous seven days, and vessels which have left an infected port within less than five times twenty-four hours shall stop at the sanitary stations indicated in the preceding paragraph in order to embark such sanitary guards as the Turkish authorities may direct. No tax or charge shall be levied in respect to these sanitary guards and they shall be disembarked at a sanitary station on departure from the Straits.

Article 4. -- In time of war, Turkey not being belligerent, merchant vessels, under any flag or with any kind of cargo, shall enjoy freedom of transit and navigation in the Straits subject to the provisions of Articles 2 and 3.

Pilotage and towage remain optional.

Article 5. -- In time of war, Turkey being belligerent, merchant vessels not belonging to a country at war with Turkey shall enjoy freedom of transit and navigation in the Straits on condition that they do not in any way assist the enemy.

Such vessels shall enter the Straits by day and their transit shall be effected by the route which shall in each case be indicated by the Turkish authorities.

Article 6. -- Should Turkey consider herself to be threatened with imminent danger of war, the provisions of Article 2 shall nevertheless continue to be applied except that vessels must enter the Straits by day and that their transit must be effected by the route which shall, in each case, be indicated by the Turkish authorities.

Pilotage may, in this case, be made obligatory, but no charge shall be levied.

Article 7. -- The term "merchant vessels" applies to all vessels which are not covered by Section II of the present Convention.

#### SECTION II.--Vessels of War

Article 8. -- For the purposes of the present Convention, the definitions of vessels of war and of their specification together with those relating to the calculation of tonnage shall be as set forth in Annex II to the present Convention.

Article 9. -- Naval auxiliary vessels specifically designed for the carriage of fuel, liquid or non-liquid, shall not be

subject to the provisions of Article 13 regarding notification, nor shall they be counted for the purpose of calculating the tonnage which is subject to limitation under Articles 14 and 18, on condition that they shall pass through the Straights singly. They shall, however, continue to be on the same footing as vessels of war for the purpose of the remaining provisions governing transit.

The auxiliary vessels specified in the preceding paragraph shall only be entitled to benefit by the exceptional status therein contemplated if their armament does not include: for use against floating targets, more than two guns of a maximum calibre of 105 millimetres; for use against aerial targets, more than two guns of a maximum calibre of 75 millimetres.

Article 10. -- In time of peace, light surface vessels, minor war vessels and auxiliary vessels, whether belonging to Black Sea or non-Black Sea Powers, and whatever their flag, shall enjoy freedom of transit through the Straits without any taxes or charges whatever, provided that such transit is begun during daylight and subject to the conditions laid down in Article 13 and the articles following thereafter.

Vessels of war other than those which fall within the categories specified in the preceding paragraph shall only enjoy a right of transit under the special conditions provided by Articles 11 and 12.

Article 11. -- Black Sea Powers may send through the Straits capital ships of a tonnage greater than that laid down in

the first paragraph of Article 14, on condition that these vessels pass through the Straits singly, escorted by not more than two destroyers.

Article 12. -- Black Sea Powers shall have the right to send through the Straits, for the purpose of rejoining their base, submarines constructed or purchased outside the Black Sea, provided that adequate notice of the laying down or purchase of such submarines shall have been given to Turkey.

Submarines belonging to the said Powers shall also be entitled to pass through the Straits to be repaired in dockyards outside the Black Sea on condition that detailed information on the matter is given to Turkey.

In either case, the said submarines must travel by day and on the surface, and must pass through the Straits singly.

Article 13. -- The transit of vessels of war through the Straits shall be preceded by notification given to the Turkish Government through the diplomatic channel. The normal period of notice shall be eight days; but it is desirable that in the case of non-Black Sea Powers this period should be increased to fifteen days. The notification shall specify the destination, name, type and number of the vessels, as also the date of entry for the outward passage and, if necessary, for the return journey. Any change of date shall be subject to three days' notice.

Entry into the Straits for the outward passage shall take place within a period of five days from the date

given in the original notification. After the expiry of this period, a new notification shall be given under the same conditions as for the original notification.

When effecting transit, the commander of the naval force shall, without being under any obligation to stop, communicate to a signal station at the entrance to the Dardanelles or the Bosphorus the exact composition of the force under his orders.

Article 14. -- The maximum aggregate tonnage of all foreign naval forces which may be in course of transit through the Straits shall not exceed 15,000 tons, except in the cases provided for in Article 11 and in Annex III to the present Convention.

The forces specified in the preceding paragraph shall not, however, comprise more than nine vessels.

Vessels, whether belonging to Black Sea or non-Black Sea Powers, paying visits to a port in the Straits, in accordance with the provisions of Article 17, shall not be included in this tonnage.

Neither shall vessels of war which have suffered damage during their passage through the Straits be included in this tonnage; such vessels, while undergoing repair, shall be subject to any special provisions relating to security laid down by Turkey.

Article 15. -- Vessels of war in transit through the Straits shall in no circumstances make use of any aircraft which they may be carrying.

Article 16. -- Vessels of war in transit through the Straits shall not, except in the event of damage or peril of the sea, remain therein longer than is necessary for them to effect the passage.

Article 17. -- Nothing in the provisions of the preceding articles shall prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government. Any such force must leave the Straits by the same route as that by which it entered, unless it fulfills the conditions required for passage in transit through the Straits as laid down by Articles 10, 14, and 18.

Article 18. -- (1) The aggregate tonnage which non-Black Sea Powers may have in that sea in time of peace shall be limited as follows:

(a) Except as provided in paragraph (h) below, the aggregate tonnage of the said Powers shall not exceed 30,000 tons;

(b) If at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the signature of the present Convention, the aggregate tonnage of 30,000 tons mentioned in paragraph (a) shall be increased by the same amount, up to a maximum of 45,000 tons. For this purpose, each Black Sea Power shall, in conformity with Annex IV to the present Convention, inform the Turkish Government, on the 1st January and the 1st July

of each year, of the total tonnage of its fleet in the Black Sea; and the Turkish Government shall transmit this information to the other High Contracting Parties and to the Secretary-General of the League of Nations.

(c) The tonnage which any one non-Black Sea Power may have in the Black Sea shall be limited to two-thirds of the aggregate tonnage provided for in paragraphs (a) and (b) above;

(d) In the event, however, of one or more non-Black Sea Powers desiring to send naval forces into the Black Sea, for a humanitarian purpose, the said forces, which shall in no case exceed 8,000 tons altogether, shall be allowed to enter the Black Sea without having to give the notification provided in Article 13 of the present Convention, provided an authorisation is obtained from the Turkish Government in the following circumstances: if the figure of the aggregate tonnage specified in paragraphs (a) and (b) above has not been reached and will not be exceeded by the despatch of the forces which it is desired to send, the Turkish Government shall grant the said authorisation within the shortest possible time after receiving the request which has been addressed to it; if the said figure has already been reached or if the despatch of the forces which it is desired to send will cause it to be exceeded, the Turkish Government will immediately inform the other Black Sea Powers of the request for authorisation, and if the said Powers make no objection within twenty-four

hours of having received this information, the Turkish Government shall, within twenty-four hours at the latest, inform the interested Powers of the reply which it has decided to make to their request.

Any further entry into the Black Sea of naval forces of non-Black Sea Powers shall only be effected within the available limits of the aggregate tonnage provided for in paragraphs (a) and (b) above.

(2) Vessels of war belonging to non-Black Sea Powers shall not remain in the Black Sea more than twenty-one days, whatever be the object of their presence there.

Article 19. -- In time of war, Turkey not being belligerent, warships shall enjoy complete freedom of transit and navigation through the Straits under the same conditions as those laid down in Articles 10 to 13.

Vessels of war belonging to belligerent Powers shall not, however, pass through the Straits except in cases arising out of the application of Article 25 of the present Convention, and in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant.

In the exceptional cases provided for in the preceding paragraph, the limitations laid down in Articles 10 to 18 of the present Convention shall not be applicable.

Notwithstanding the prohibition of passage laid down in paragraph 2 above, vessels of war belonging to belligerent Powers, whether they are Black Sea Powers or not, which have become separated from their bases, may return thereto.

Vessels of war belonging to belligerent Powers shall not make any capture, exercise the right of visit and search, or carry out any hostile act in the Straits.

Article 20. -- In time of war, Turkey being belligerent, the provisions of Articles 10 to 18 shall not be applicable; the passage of warships shall be left entirely to the discretion of the Turkish Government.

Article 21. -- Should Turkey consider herself to be threatened with imminent danger of war she shall have the right to apply the provisions of Article 20 of the present Convention.

Vessels which have passed through the Straits before Turkey has made use of the powers conferred upon her by the preceding paragraph, and which thus find themselves separated from their bases, may return thereto. It is, however, understood that Turkey may deny this right to vessels of war belonging to the State whose attitude has given rise to the application of the present article.

Should the Turkish Government make use of the powers conferred by the first paragraph of the present article, a notification to that effect shall be addressed to the High Contracting Parties and to the Secretary-General of the League of Nations.

If the Council of the League of Nations decide by a majority of two-thirds that the measures thus taken by Turkey are not justified, and if such should also be the opinion of the majority of the High Contracting Parties signatories to the present Convention, the Turkish Government undertakes to discontinue the measures in question as also any measures which may have been taken under Article 6 of the present Convention.

Article 22. -- Vessels of war which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox or which have had such cases on board within the last seven days and vessels of war which have left an infected port within less than five times twenty-four hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary in order to prevent any possibility of the Straits being infected.

### SECTION III.--Aircraft

Article 23. -- In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which may be established in the Straits. Civil aircraft may use these routes provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage.

The Turkish Governmetn moreover undertakes, notwithstanding any remilitarization of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorized under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an aurtherization shall be indicated from time to time.

#### SECTION IV.--General Provisions

Article 24. -- The functions of the International Commission set up under the Convention relating to the regime of the Straits of the 24th July, 1923, are hereby transferred to the Turkish Government.

The Turkish Government undertakes to collect statistics and to furnish information concerning the application of Articles 11, 12, 14 and 18 of the present Convention.

They will supervise the execution of all the provisions of the present Convention relating to the passage of vessels of war through the Straits.

As soon as they have been notified of the intended passage through the Straits of a foreign naval force the Turkish Government shall inform the representatives at Angora of the High Contracting Parties of the composition of that force, its tonnage, the date fixed for its entry into the Straits, and, if necessary, the probable date of its return.

The Turkish Government shall address to the Secretary-General of the League of Nations and to the High Contracting Parties an annual report giving details regarding the movements of foreign vessels of war through the Straits and furnishing all information which may be of service to commerce and navigation, both by sea and by air, for which provision is made in the present Convention.

Article 25. -- Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations.

#### SECTION V.--Final Provisions

Article 26. -- The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited in the archives of the Government of the French Republic in Paris.

The Japanese Government shall be entitled to inform the Government of the French Republic through their diplomatic representative in Paris that the ratification has been given, and in that case they shall transmit the instrument of ratification as soon as possible.

A proces-verbal of the deposit of ratifications shall be drawn up as soon as six instruments of ratification, including that of Turkey, shall have been deposited. For this purpose the notification provided for in the preceding

paragraph shall be taken as the equivalent of the deposit of an instrument of ratification.

The present Convention shall come into force on the date of the said proces-verbal.

The French Government will transmit to all the High Contracting Parties an authentic copy of the proces-verbal provided for in the preceding paragraph and of the proces-verbaux of the deposit of any subsequent ratifications.

Article 27. -- The present Convention shall, as from the date of its entry into force, be open to accession by any Power signatory to the Treaty of Peace at Lausanne signed on the 24th July, 1923.

Each accession shall be notified, through the diplomatic channel, to the Government of the French Republic, and by the latter to all the High Contracting Parties.

Accessions shall come into force as from the date of notification to the French Government.

Article 28. -- The present Convention shall remain in force for twenty years from the date of its entry into force.

The principles of freedom of transit and navigation affirmed in Article 1 of the present Convention shall however continue without limit of time.

If, two years prior to the expiry of the said period of twenty years, no High Contracting Party shall have given notice of denunciation to the French Government the present Convention shall continue in force until two years after such notice shall have been given. Any such notice shall

be communicated by the French Government to the High Contracting Parties.

In the event of the present Convention being denounced in accordance with the provisions of the present article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.

Article 29. -- At the expiry of each period of five years from the date of the entry into force of the present Convention each of the High Contracting Parties shall be entitled to initiate a proposal for amending one or more of the provisions of the present Convention.

To be valid, any request for revision formulated by one of the High Contracting Parties must be supported, in the case of modifications to Articles 14 to 18, by one other High Contracting Party, and, in the case of modifications to any other article, by two other High Contracting Parties.

Any request for revision thus supported must be notified to all the High Contracting Parties three months prior to the expiry of the current period of five years. This notification shall contain details of the proposed amendments and the reasons which have given rise to them.

Should it be found impossible to reach an agreement on these proposals through the diplomatic channel, the High Contracting Parties agree to be represented at a conference to be summoned for this purpose.

Such a conference may only take decisions by a unanimous vote, except as regards cases of revision involving

Articles 14 and 18, for which a majority of three-quarters of the High Contracting Parties shall be sufficient.

The said majority shall include three-quarters of the High Contracting Parties which are Black Sea Powers, including Turkey. . . .

## APPENDIX 1

### DECLARATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA ON ITS TERRITORIAL SEA

13 December 1957

From a geographical point of view, Indonesia, which is an archipelago consisting of thousands of islands, has its own distinguishing characteristics.

In order to assure the territorial integrity and protection of the resources of the State of Indonesia, the entire archipelago and the waters between its islands must be regarded as a single entity.

The limits of the territorial sea indicated in Decree No. 442 (1939) on the territorial sea and naval districts, Art. 1, do not agree with the above, since the land territory of Indonesia is divided into areas separated from its territorial sea.

On the basis of the above considerations, the Government declares that all of the waters around and between the islands comprising Indonesia, irrespective of their breadth and extent, are an integral part of the land territory of Indonesia and are thus part of the inland waters or national

Source: Barabolya, P.D., et al., Manual of International Maritime Law. 2 Vols. Trans. Naval Intelligence Command. Moscow: Military Publishing House of the Ministry of Defense of the U.S.S.R., 1966, pp. 395-396.

waters, under the exclusive sovereignty of Indonesia.

Innocent passage of foreign ships in the inland waters is assured, as long as they do not violate the sovereignty and security of the State of Indonesia.

The limits of the territorial sea (with a breadth of 12 nautical miles) are measured from a line connecting the outermost points of the Indonesian islands.

APPENDIX J

WIDTHS OF SELECTED STRAITS AND CHANNELS

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
<b>ANGLO-AMERICA</b>			
Robeson Channel . . . .	Canada/Denmark . . . .	Between Ellesmere Island and Greenland.	10
Hudson Strait . . . . .	Canada . . . . .	Entrance to Hudson Bay . . . . .	55
Strait of Belle Isle . . . .	Canada . . . . .	Between Labrador and Newfoundland.	9
Jacques Cartier Passage .	Canada . . . . .	Between Quebec Coast and Anticosti Island.	15
Gaspé Passage . . . . .	Canada . . . . .	Between Anticosti Island and Gaspé Peninsula.	38

See footnotes at end of table.

Source: Churchill, Robin, S. Houston Lay, and Myron Nordquist. New Directions in the Law of the Sea - Documents. 2 Vols. Dobbs Ferry, New York: Oceana Publications, Inc., 1973.

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
Cabot Strait . . . . .	Canada . . . . .	Between Newfoundland and Cape Breton Island.	57
Northumberland Strait . . . . .	Canada . . . . .	Between New Brunswick and Prince Edward Island.	7
Florida Strait . . . . .	United States/Cuba . . . . .	Between Key West and Cuba . . . . .	82
Santa Barbara Channel . . . . .	United States . . . . .	Between Channel Islands and California Coast.	11
Strait of Juan de Fuca . . . . .	United States/Canada . . . . .	South of Vancouver Island . . . . .	9
Hecate Strait . . . . .	Canada . . . . .	Between Queen Charlotte Islands and Mainland.	24
Dixon Entrance . . . . .	United States/Canada . . . . .	Between Alexander Archipelago and Queen Charlotte Islands.	27
Amukta Pass . . . . .	United States . . . . .	Aleutian Islands: West of Amukta island.	37
Unimak Pass . . . . .	United States . . . . .	Aleutian Islands: West of Unimak Island.	10
Shelikof Strait . . . . .	United States . . . . .	Between Alaska Peninsula and Kodiak Island.	20
Bering Strait . . . . .	United States/U.S.S.R. . . . .	Between Alaska and Siberia . . . . .	419

#### LATIN AMERICA

Yucatan Channel . . . . .	Cuba/Mexico . . . . .	Between Cuba and Yucatan Peninsula . . . . .	105
Northwest Providence Channel.	United Kingdom . . . . .	Bahamas: Southwest of Great Abaco . . . . .	26
Northeast Providence Channel.	United Kingdom . . . . .	Bahamas: Between Great Abaco Island and Eleuthera.	29
Crooked Passage . . . . .	United Kingdom . . . . .	Bahamas: Between Long Island and Crooked Island.	26
Mayaguana Passage . . . . .	United Kingdom . . . . .	Bahamas: Between Acklins Island and Mayaguana Island.	39
Caicos Passage . . . . .	United Kingdom . . . . .	Bahamas Area: Between Mayaguana Island and Caicos Islands.	35
Windward Passage . . . . .	Cuba/Haiti . . . . .	Between Cuba and Hispaniola . . . . .	45
Turks Island Passage . . . . .	United Kingdom . . . . .	Between Turks Islands and Caicos Islands.	13
Mouchoir Passage . . . . .	United Kingdom . . . . .	Near Turks Islands . . . . .	23
Mona Passage . . . . .	U.S./Dominican Rep. . . . .	Between Dominican Republic and Mona Island (P.R.).	33
Virgin Passage . . . . .	United States . . . . .	Between Culebra (P.R.) and Virgin Islands.	8
Anegada Passage . . . . .	United Kingdom . . . . .	Between Anegada and Sombbrero . . . . .	48
Guadeloupe Passage . . . . .	France/United Kingdom.	Between Guadeloupe and Montserrat . . . . .	28
Dominica Channel . . . . .	France/United Kingdom.	Between Marie Galante (Guadeloupe) and Dominica.	16
Martinique Passage . . . . .	France/United Kingdom.	Between Dominica and Martinique . . . . .	22

See footnotes at end of table.

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
<b>LATIN AMERICA—Continued</b>			
St. Lucia Channel . . . .	France/United Kingdom	Between Martinique and St. Lucia . .	17
St. Vincent Passage . . . .	United Kingdom . . . .	Between St. Lucia and St. Vincent . .	23
Dragon's Mouth . . . . .	Trinidad and Tobago/ Venezuela.	Between Trinidad (Chacachacare Island) and Peninsula of Paria.	6
Serpent's Mouth . . . . .	Trinidad and Tobago/ Venezuela.	Between Trinidad and Coast of Venezuela.	8
Aruba-Paraguana Passage.	Netherlands/Venezuela .	Between Aruba and Paraguana Peninsula.	15
Estrecho de la Maire. . . .	Argentina . . . . .	Between Tierra del Fuego and Isla de los Estados.	16
Strait of Magellan . . . .	Argentina/Chile . . . . .	Between Tierra del Fuego and Main- land South America.	2
<b>EUROPE</b>			
Bosporus . . . . .	Turkey . . . . .	Between Turkey in Europe and Anatolia.	( <sup>10</sup> )
Dardanelles . . . . .	Turkey . . . . .	Between Gallipoli Peninsula and Anatolia.	( <sup>10</sup> )
Kárpáthos Strait . . . . .	Greece . . . . .	Dodecanese: Between Kárpáthos and Rhodes.	23
Kásoe Strait . . . . .	Greece . . . . .	Dodecanese: Between Kásoe and Crete.	26
Strait of Otranto . . . . .	Albania/Italy . . . . .	Between Albania and Italian Peninsula.	41
Strait of Messina . . . . .	Italy . . . . .	Between Sicily and Italian Peninsula .	2
Malta Channel . . . . .	Italy/United Kingdom .	Between Malta (Gozo) and Sicily . . .	44
Strait of Sicily . . . . .	Italy . . . . .	Between Pantelleria and Sicily . . . .	55
Strait between Elba and Italy.	Italy . . . . .	Between Elba and Italian Peninsula .	5
Strait between Corsica and Elba.	France/Italy . . . . .	Between Corsica and Elba . . . . .	27
Strait of Bonifacio . . . . .	France/Italy . . . . .	Between Corsica and Sardinia . . . . .	6
Freu de Minorca . . . . .	Spain . . . . .	Between Majorca and Minorca . . . .	20
Strait of Gibraltar . . . .	Morocco/Spain . . . . .	Between Morocco and Spain . . . . .	8
Strait of Dover . . . . .	France/United Kingdom.	Between England and France . . . . .	18
The Solent . . . . .	United Kingdom . . . .	Between Isle of Wight and English Mainland.	2
St. George's Channel . . .	Ireland/United Kingdom	Between Ireland and Wales . . . . .	<sup>9</sup> 42
North Channel . . . . .	United Kingdom . . . .	Between Northern Ireland and Scotland.	11
Little Minch . . . . .	United Kingdom . . . .	Between Outer Hebrides and Island of Skye.	10
North Minch . . . . .	United Kingdom . . . .	Between Outer Hebrides and Main- land of Scotland.	<sup>10</sup> 20

See footnotes at end of table.

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
<b>EUROPE—Continued</b>			
Fentland Firth . . . . .	United Kingdom . . . . .	Between Orkneys and Mainland of Scotland.	" 5
The Hole . . . . .	United Kingdom . . . . .	Between Orkneys and Shetland Islands (Fair Isle).	23
Skagerrak . . . . .	Denmark/Norway . . . . .	Between Denmark (Jutland) and Norway.	61
Ore Sund . . . . .	Denmark/Sweden . . . . .	Between Sjaelland and Sweden . . . . .	2
Bornholmsgat (Hambarne).	Denmark/Sweden . . . . .	Between Bornholm and Sweden . . . . .	19
Kalmar Sund . . . . .	Sweden . . . . .	Between Öland Island and Swedish Mainland.	2
Entrance to Gulf of Bothnia.	Finland/Sweden . . . . .	Between Aland Islands and Sweden . . . . .	" 17
Entrance to Gulf of Finland.	Estonia/Finland . . . . .	Between Estonia and Finland . . . . .	17
<b>FAR EAST</b>			
Kuril Strait . . . . .	U.S.S.R. . . . .	Between Kamchatka and Kuril Islands.	6
Etorofu Kaikyo . . . . .	U.S.S.R./U.S.S.R. Administration.	Between Etorofu and Uruppu . . . . .	22
Kunashiri Suido . . . . .	U.S.S.R. Administration.	Between Etorofu and Kunashira . . . . .	12
Shikotan Suido . . . . .	U.S.S.R. Administration.	Between Shikotan and Taraku (Habomai Islands).	12
Taraku Suido . . . . .	U.S.S.R. Administration.	Habomai Island: Between Taraku and Shibotsu.	6
Notsuke . . . . .	Japan/U.S.S.R. Admin . . . . .	Between Hokkaido and Kunashira . . . . .	9
Soya Kaikyo (La Perouse Strait).	Japan/U.S.S.R. . . . .	Between Hokkaido and Sakhalin . . . . .	" 23
Tsugara Kaikyo . . . . .	Japan . . . . .	Between Honshu and Hokkaido . . . . .	10
Eastern Chosen Strait . . . . .	Japan . . . . .	Between Iki (Off coast of Kyushu) and Tsushima.	25
Western Chosen Strait . . . . .	Japan/Korea . . . . .	Between Korea and Tsushima . . . . .	" 23
Cheju Haehyup . . . . .	Korea . . . . .	Off Southern Coast of Korea (Cheju Do to Haem Sö).	12
Maemul Suido . . . . .	Korea . . . . .	Off Southwest Coast of Korea (Maemul To to Yüngsan Do).	13
Huksan Chiedo . . . . .	Korea . . . . .	Off Southwest Coast of Korea . . . . .	8
Pohai Strait . . . . .	China . . . . .	Entrance to Pohai Bay . . . . .	22
Osumi Kaikyo (Van Dieman Strait).	Japan . . . . .	Between Kyushu and Ryukyus . . . . .	16
Tokara Kaikyo (Colnett Strait).	Japan . . . . .	Ryukyus: Between Osumi Gunto and Tokara Gunto.	22
Formosa Strait . . . . .	China . . . . .	Between Taiwan and Mainland China . . . . .	" 74
P'enghu Shuitao (Pescadores Channel).	China . . . . .	Between Taiwan and P'enghu (Pescadores).	17

See footnotes at end of table.

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
<b>FAR EAST—Continued</b>			
Lema Channel . . . . .	China/United Kingdom .	Between Hong Kong and Lema Islands.	6
Hainan Strait . . . . .	China . . . . .	Between Hainan Island and Mainland China.	10
<b>SOUTHEAST ASIA</b>			
Babuyan Channel . . . . .	Philippines . . . . .	Between Babuyan Islands and Luzon .	15
Polillo Strait . . . . .	Philippines . . . . .	Between Polillo Island and Luzon . .	10
Maqueda Channel . . . . .	Philippines . . . . .	Between Cataduanes and Luzon . . .	4
Verde Island Passage . . . . .	Philippines . . . . .	Between Luzon and Mindoro (Verde Island to Mindoro).	<sup>16</sup> 4
San Bernardino Passage . . . . .	Philippines . . . . .	Between Luzon and Samar . . . . .	8
Mindoro Strait . . . . .	Philippines . . . . .	Between Calamian Islands and Mindoro (from Apo 1 to outermost of Calamian Islands).	<sup>17</sup> 20
Surigao Strait . . . . .	Philippines . . . . .	Between Leyte and Mindanao . . . . .	10
Basilan Passage . . . . .	Philippines . . . . .	Between Mindanao and Sulu Archipelago.	7
Balabac Passage . . . . .	Malaysia/Philippines . .	Between Palawan and Sabah (Island of Borneo).	<sup>18</sup> 27
Sibutu Passage . . . . .	Philippines . . . . .	In Sulu Archipelago near Borneo . .	18
Bangka Passage . . . . .	Indonesia . . . . .	Between Bangka Island and offshore islands to north.	19
Selat Grehund . . . . .	Indonesia . . . . .	Between offshore islands of Celebes to east.	10
Makassar Strait . . . . .	Indonesia . . . . .	Between Borneo and Celebes (without regard to offshore islands).	<sup>19</sup> 62
Koti Passage . . . . .	Indonesia . . . . .	Off northwest coast of Borneo . . . .	10
Serasan Passage . . . . .	Indonesia . . . . .	Off northwest coast of Borneo . . . .	23
Api Passage . . . . .	Indonesia . . . . .	Off northwest coast of Borneo . . . .	16
Selat Ombai . . . . .	Indonesia/Portugal . . .	Between Alor and Portuguese Timor .	16
Selat Roti . . . . .	Indonesia . . . . .	Between Roti and Timor . . . . .	6
Selat Sape . . . . .	Indonesia . . . . .	Between Komodo and Sumbawa . . . .	8
Selat Alas . . . . .	Indonesia . . . . .	Between Lombok and Sumbawa . . . .	5
Selat Lombok . . . . .	Indonesia . . . . .	Between Bali and Lombok . . . . .	11
Selat Bali . . . . .	Indonesia . . . . .	Between Bali and Java . . . . .	2
Selat Sunda . . . . .	Indonesia . . . . .	Between Java and Sumatra (not taking into account Pulau Sangiang in middle of strait).	12
Gaspar Strait . . . . .	Indonesia . . . . .	Between Bangka and Billiton . . . . .	<sup>20</sup> 8
Selat Bangka . . . . .	Indonesia . . . . .	Between Bangka and Sumatra . . . . .	8
Berhala Strait . . . . .	Indonesia . . . . .	Between Singkep and Sumatra . . . . .	<sup>21</sup> 9
Strait of Malacca (North) . . . . .	Indonesia/Malaysia . . .	Between Malaysia and Sumatra . . . .	20
Strait of Malacca (South) . . . . .	Indonesia/Malaysia . . .	Between Malaysia and Sumatra opposite Singapore.	8

See footnotes at end of table.

<i>Passage</i>	<i>Sovereignty</i>	<i>Geographical situation</i>	<i>Least width (in nautical miles)</i>
<b>OCEANIA</b>			
Alenuihaha Channel . . . . .	United States . . . . .	Between Hawaii and Maui . . . . .	25
Alalakeiki Channel . . . . .	United States . . . . .	Between Kahoolawe and Maui . . . . .	6
Kealaikahiki Channel . . . . .	United States . . . . .	Between Kahoolawe and Lanai . . . . .	15
Auau Channel . . . . .	United States . . . . .	Between Lanai and Maui . . . . .	8
Pailolo Channel . . . . .	United States . . . . .	Between Molokai and Maui . . . . .	8
Kalohi Channel . . . . .	United States . . . . .	Between Lanai and Molokai . . . . .	8
Kaiwi Channel . . . . .	United States . . . . .	Between Oahu and Moloaki . . . . .	22
Kauai Channel . . . . .	United States . . . . .	Between Kauai and Oahu . . . . .	63
Kaulakahi Channel . . . . .	United States . . . . .	Between Kauai and Niihau . . . . .	15
Apolima Strait . . . . .	Western Samoa . . . . .	Between Savai'i and Upolu (not taking into account Apolima Island in center of strait).	4
Indispensable Strait . . . . .	United Kingdom . . . . .	Between Guadalcanal and Malaita . . . . .	22 19
Manning Strait . . . . .	United Kingdom . . . . .	Between Choisel and Santa Isabel . . . . .	6
Bougainville Strait . . . . .	United Kingdom . . . . .	Between Bougainville and Choiseul . . . . .	15
St. George's Channel . . . . .	Australia . . . . .	Between New Britain and New Ireland.	8
Goschen Strait . . . . .	Australia . . . . .	Between New Guinea and D'Entrecasteaux Islands.	7
Dampier Strait . . . . .	Australia . . . . .	Between New Britain and Umboi . . . . .	13
Vitiaz Strait . . . . .	Australia . . . . .	Between New Guinea and Bismarck Archipelago.	24
Cook Strait . . . . .	New Zealand . . . . .	Between North Island and South Island.	12
Banks Strait . . . . .	Australia . . . . .	Between Australia and offshore islands (near Tasmania).	8
Floveaux . . . . .	New Zealand . . . . .	Between South Island and Stewart Island.	22 15
<b>MISCELLANEOUS</b>			
Kara Strait . . . . .	U.S.S.R. . . . .	Between Novaya Zemlya and Ostrov Vaygach.	19
Palk Strait . . . . .	Ceylon/India . . . . .	Through Adams Bridge . . . . .	3
Strait of Hormoz . . . . .	Iran/Muscat and Oman . . . . .	Entrance to Persian Gulf . . . . .	21
Bab el Mandeb . . . . .	France/Yemen . . . . .	Southern Entrance to Red Sea . . . . .	22 14

<sup>1</sup> Entrance to Hudson Strait between Revolution Island and Button Islands (off Labrador Coast), 37 miles.

<sup>2</sup> Distance between Binini (Bahamas) and Florida, 43 miles.

<sup>3</sup> Distance given in table is that between Big Diomed Island (U.S.S.R.) and Mainland Siberia. Other distances: (1) Between Little Diomed Island (U.S.) and Big Diomed Island, 7 miles. (2) Between Little Diomed Island and Mainland Alaska, 20 miles. (3) Between Mainland Alaska and Mainland Siberia, 45 miles.

<sup>4</sup> Distance given is that from Contoy, an island about 6 miles off the Yucatan coast.

<sup>5</sup> Distance between Great Abaco Island and Royal Island, off Eleuthera coast, 26 miles.

<sup>6</sup> Distance between Aeklins Island and Plana Cays, 12 miles; between Plana Cays and Mayaguana Island, 21 miles.

<sup>7</sup> Distance given in table is from Culebrita, an islet east of Culebra.

<sup>8</sup> Distance between Sombrero and Horse Shoe Reef, a breaking reef running southeast of Anegada and attached thereto, is 42 miles.

<sup>9</sup> Less than a nautical mile.

<sup>10</sup> Distance given in table is between mainlands; between South Bishop Rock (Wales) and Tuskar Rock (Ireland), 36 miles.

<sup>11</sup> Between Shiant Island and mainland of Scotland, 17 miles.

<sup>12</sup> Between Pentland Skerries and mainland of Scotland,

4 miles. Stroma Island, which also lies in Pentland Firth, is not considered in the computation.

<sup>13</sup> Distance given in table approximately correct; several small islands in strait makes precise measurements difficult.

<sup>14</sup> Distance between Hokkaido and Ostrov Kamen' Opasnosti, 20 miles; on to Sakhalin, 9 miles.

<sup>15</sup> Measured from island off the coast of Korea.

<sup>16</sup> Distance is 68 miles if offshore islands are taken into consideration.

<sup>17</sup> Distance between Luzon and Verde Island, 3 miles.

<sup>18</sup> Distance between Mindoro to Apo Reef, 15 miles.

<sup>19</sup> Distance given in table is that measured between Balabac, largest of the major islands south of Palawan, and Balambangan, closest of the major islands of Sabah.

<sup>20</sup> Distance between Borneo and Pulau Tuguan, 55 miles.

<sup>21</sup> Distance given in table is that measured across Maclefield Strait portion of Caspar Strait.

<sup>22</sup> Distance from Sumatra to Berhala, in middle of strait, 9 miles; from Berhala to Singkep, 10 miles.

<sup>23</sup> Distance given in table is that measured between Malaita and Nura Islands, the latter 10 miles from Guadalcanal.

<sup>24</sup> Distance between Centre Island (4 miles off South Island) and Stewart Island at west end of strait, 13 miles. At east end of strait the recommended channel for ships between Dog Island on the north and Kuapuke on the south, the channel is 11 miles wide.

<sup>25</sup> Distance given in table is between mainlands; between Perim Island and African continent, 11 miles; between Perim Island and French islets to south, 9 miles.

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