

PART XII. PROTECTION AND PRESERVATION OF THE  
MARINE ENVIRONMENT

Section I. Use of Terms

Article 191 bis  
Use of Terms

For the purposes of this Part,

1. "Pollution of the marine environment", "marine pollution", and cognate expressions, means the introduction or release of substances and energy into the marine environment which results or is likely to result in such deleterious effects therein as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities";
2. "Dumping" means "any deliberate disposal at sea of
  - a)- waste or other matter from vessels, aircraft, installations or structures;
  - b)- waste or other matter transported to or by, or derived from their treatment on, vessels, aircraft, installations or structures operating for such deliberate disposal;
  - c)- vessels, aircraft, installations or structures;but does not include:
  - a)- the disposal at sea of waste or other matter incidental to or derived from, the normal operations of vessels, aircraft, installations or structures;
  - b)- the placement of matter for purposes other than its mere disposal, provided that such placement is compatible with this Act";
3. "International regulation" means "international rules, standards, and, where appropriate, recommended practices and procedures established by a competent international organization or through a general diplomatic conference for the prevention, reduction and control of pollution of the marine environment";
4. "Prevention, reduction and control of marine pollution" is used interchangeably with "control of marine pollution" and cognate expressions.

Section I bis. General Provisions

Article 192 General Obligations

States have the obligation to protect and preserve the marine environment.

Article 193 Sovereign right of States to exploit their natural resources

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and subject to their obligation to protect and preserve the marine environment.

Article 194

National measures to prevent, reduce and control pollution of the marine environment

1. States shall take all measures [compatible with this Convention and] necessary to prevent, reduce and control marine pollution from any source. To this end, they shall, acting individually or jointly [as appropriate], use the best practicable means at their disposal. States shall endeavour to harmonize their marine pollution control policies.
2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to pollute the marine environment of other States, and to ensure that pollution from [incidents or] such activities does not spread beyond their exclusive economic zone or continental shelf.
3. [Such measures shall deal with all sources of marine pollution.]<sup>1</sup> These measures shall include the measures designed to reduce, to the fullest extent possible, marine pollution from:
  - a) land-based sources, [including rivers, streams, pipelines and structures];<sup>2</sup>
  - b) the atmosphere [or through it];
  - c) dumping;

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1. This sentence could, with minor changes, be incorporated in article 194 paragraph 1.

2. see 207(1) and 207(5).

- d) vessels, and in particular measures to prevent marine casualties and deal with emergencies, to ensure the safety of navigation, to prohibit discharges and to regulate the design, construction, equipment, operation and manning of vessels;
  - e) installations, structures [or devices] used in the marine environment, and in particular measures to prevent accidents and deal with emergencies, to ensure the safety of operations at sea, and to regulate the design, construction, equipment, operation and manning of such installations, structures [or devices].
4. In taking these measures, States shall refrain from unjustifiable interference with the lawful activities of other States in the marine environment.

Article 194 bis  
National measures to protect marine life

States shall take all measures necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.<sup>4</sup>

Article 195  
No unjustifiable interference with  
other marine environment and no transfer  
or transformation of marine pollution

In taking the measures referred to in article 194 and 194 bis, States shall act so as not to:

- a) unjustifiably interfere with activities<sup>5</sup> other states carry out in accordance with this Convention.
- b) transfer [, directly or indirectly] pollution damage or risk from one area of the marine environment to another.
- c) transform one type of marine pollution into another.

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- 3. Two other possibilities
    - a) deletion of the paragraph;
    - b) amalgamation with Article 195; see 195(a).
  - 4. Could also be included in the definition of marine pollution, if not already covered.
  - 5. The sentence could also have been the same as the sentence suggested for article 194, para.4, or, of course, the sentence used in 194, para.4.

Article 196  
Use of Technologies or introduction  
of new species

States shall take all measures necessary to control marine pollution from the use of technologies under their jurisdiction or control, and to prevent the [intentional or accidental] introduction of species or other forms of [marine] life which may cause significant and harmful changes to a particular part of the marine environment.

Delete paragraph 2.

Section 2. Global and Regional Co-operation

Article 197  
Co-operation on a global or regional basis

At the appropriate level, global or regional, States shall cooperate, directly or through competent international organizations to establish international regulation (5 bis) [taking into account characteristic regional features].

Article 198  
Notification and control of  
imminent or actual damage

- (1) A State which becomes aware of imminent or actual damage by pollution to the marine environment shall immediately notify other States in the area affected by such damage as well as the competent international organizations.
- (2) In case of imminent or actual damage by pollution to the marine environment, States in the area affected, [in accordance with their capabilities] and the<sup>6</sup> competent international organizations shall cooperate in the prevention, reduction or control of such damage.

Article 199  
Contingency plans against marine pollution

States shall jointly promote and develop contingency plans to deal with marine pollution incidents.

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6. The text does not read: "to the fullest extent possible."  
 - 5 bis. See article 201.

Article 200  
Studies, exchange of information,  
research programmes

- (1) States shall co-operate, directly or through competent international organizations, to
- promote studies
  - undertake scientific research programmes
  - encourage the exchange of information and data [acquired] about marine pollution.
- (2) States shall endeavour to participate [actively] in regional and global programmes to acquire knowledge for the assessment of the nature and extent of marine pollution, the exposure to it, its pathways, risks and remedies.<sup>7</sup>

Article 201  
Scientific criteria and international regulations

Taking into account the information and data referred to in article 200, States shall co-operate, directly or through competent international organizations, in developing appropriate scientific criteria for the establishment of international regulations.<sup>8</sup>

SECTION III  
 TECHNICAL ASSISTANCE

Article 202  
Scientific and technical assistance

- (1) States shall, directly or through competent international organizations:
- a) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment,

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7. Or, possibly, States shall endeavour to so participate, in regional and global programmes as to acquire knowledge required for marine environmental assessments.

8. Note that article 197 speaks of "the protection and preservation of the marine environment", while article 201 speaks of "the prevention, reduction and control of marine pollution".

- b) provide appropriate assistance, specially to developing States
    - for the control of (serious) marine pollution resulting from major incidents
    - for the preparation of environmental assessments.
- (2) Programmes of assistance for developing States referred to in paragraph 1(a) shall include
- a) training of their scientific and technical personnel;
  - b) facilitating the participation of such States in relevant global or regional programmes;
  - c) supplying them with necessary facilities and equipment;
  - d) enhancing their capacity to manufacture such necessary equipment; and
  - e) developing facilities for, and advice on, their research, monitoring, educational and other programmes.

Article 203  
Preferential treatment by international organizations to developing States

Developing States shall be granted preference, for the prevention, reduction and control of marine pollution, by international organizations in their allocation of [appropriate] funds and technical assistance and the utilization of their specialized services.

SECTION 4  
 MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204  
Pollution studies and monitoring

- (1) States shall, [consistent with the rights of the State], endeavour, [in accordance with their capabilities], directly or through the competent international organizations, to observe, measure, evaluate and analyze, by recognized scientific methods, the risks or effects of marine pollution.
- (2) [In particular], States shall monitor any activities under their jurisdiction or control to determine whether these activities are likely to pollute the marine environment.

Article 205 (formerly 206)  
Environmental Assessments

States which have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of, or significant and harmful changes to, the marine environment shall, as far as practicable, assess the potential effects of such activities on the marine environment.

Article 206 (formerly 205)  
Publication of reports

States shall publish reports of the results obtained pursuant to this section or provide at appropriate intervals such reports to the competent international organizations, which shall make them available to all States.

SECTION 5  
INTERNATIONAL REGULATION AND NATIONAL MEASURES  
TO PREVENT, REDUCE AND CONTROL POLLUTION  
OF THE MARINE ENVIRONMENT

Article 207  
Pollution from land-based sources

- (1) States shall adopt laws and regulations and take other measures, which take into account international regulation, to control marine pollution from land-based sources.
- (2) Delete.
- (3) States shall endeavour to harmonize their marine pollution control policies at the appropriate regional level.
- (4) States, acting specially through competent international organizations or general diplomatic conference, shall [endeavour to]<sup>10</sup> establish international regulations to control marine pollution from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such international regulations shall be re-examined [from time to time] as necessary.
- (5) Such international regulation [and national measures] shall be designed, inter alia, to reduce to the fullest

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9. See article 213.

10. Note other corresponding provisions. (e.g. 208(5)).

extent possible, the release of toxic, harmful or noxious substances, specially those which are persistent, into the marine environment.<sup>11</sup>

Article 208  
Pollution from sea-bed activities

1. [Coastal] States shall adopt laws and regulations and take other measures necessary to control marine pollution from sea-bed activities or artificial islands, installations and structures under their jurisdiction.<sup>12</sup> Such measures shall be no less effective than international regulations.
2. and 3. Delete.
4. [Coastal] States shall endeavour to harmonize their marine pollution control policies at the appropriate regional level.
5. States, acting specially through competent international organizations or general diplomatic conference, shall establish international regulations to control marine pollution from sea-bed activities or artificial islands, installations and structures under their jurisdiction. Such international regulations shall be re-examined [from time to time] as necessary.

Article 209  
Pollution from activities in the Area

1. (formerly 2) [Without prejudice to this section], flag or registry States shall adopt laws and regulations and take other measures necessary to control marine pollution from activities in the Area carried out by their vessels, installations, structures [or other devices]. Such measures shall be no less effective than international regulations.
2. (formerly 1) International regulation to control marine pollution from activities in the Area shall be established as provided for in Part XI. Such international regulation shall be re-examined [from time to time] as necessary.

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11. See suggested article 194, para.3. Note that "national measures" are already covered by article 194.

12. Note the change from "subject to" to "under".

Article 210  
Dumping

1. States shall adopt laws and regulations and take other measures necessary, including those designed to ensure that dumping is not carried out without the approval of the competent authorities of the coastal State, to control marine pollution from dumping. Such measures shall be no less effective than international regulation.
2. Delete.
3. Delete.
4. States, acting specially through competent international organizations or a general diplomatic conference, shall endeavour to establish international regulation for the control of pollution from dumping. Such international regulations shall be re-examined [from time to time] as necessary.
5. See 210 bis.
6. Delete.

Article 210 bis  
Dumping in the territorial sea,  
exclusive economic zone or continental shelf

[Coastal States have the right to authorize, regulate and control dumping with their territorial sea, exclusive economic zone or into their continental shelf.] Dumping shall not be carried out in the territorial sea, the exclusive economic zone or onto the continental shelf of a coastal state without the [express] approval of that State given after due consideration of the matter with other States which, by reason of their geographical situation, may be adversely affected by such dumping.

Article 211  
Pollution from vessels

1. (formerly para.2) Flag States shall adopt laws and regulations for the prevention, reduction and control of marine pollution from their vessels. Such laws and regulations shall be no less effective than generally accepted international regulation.
2. (formerly para.4) Coastal states may adopt, in respect of their territorial sea, laws and regulations for the control of marine pollution from foreign vessels, including those

which are exercising the right of innocent passage provided for in section 3 of Part II. Such laws and regulations shall not hamper innocent passage of foreign vessels.

3. (formerly para.8) For the purposes of section 6, coastal States may adopt, in respect of their exclusive economic zone, laws and regulations to implement generally accepted international regulations.
4. (formerly para.7) States, acting specially through the competent international organizations or general diplomatic conference, shall establish international regulation for the control of marine pollution from vessels. They shall promote the adoption by the competent international organization of routing systems designed to reduce accidents which may pollute the marine environment. Such international regulation may include those related to prompt notification of [incidents or] marine casualties which involve discharge or probability of discharge to the coastal State where marine environment may be affected thereby. Such international regulation shall be re-examined [from time to time] as necessary.

Article 211 bis (formerly 211(3))  
Special port entry requirements

1. Coastal States may establish particular requirements for the control of marine pollution as a condition for the entry of foreign vessels into their ports or internal waters or for calling at their roadsteads or port facilities outside their internal waters. Two or more coastal States may establish such requirements in identical form in an endeavour to harmonize through this cooperative arrangement their marine pollution coastal policies.
2. All flag States shall require the master of their vessels, when navigating in the territorial sea of a state participating in such arrangement, to give, at the request of such State, information as to whether the vessel is proceeding to any of the other States and, if so, to indicate whether it complies with the particular requirements of that State.
3. Coastal States shall give due publicity to such particular requirements and shall communicate them to the competent international organization. [The communication shall indicate which States are participating in such co-operative arrangement.]
4. [This article is without prejudice to section 3 of Part II.]

Article 211 ter. (formerly 211(6))  
Pollution from vessels navigating in  
special areas

1. When, for recognized [technical] reasons related to the oceanographical and ecological conditions, the utilization, the [particular nature of the] traffic, the protection and preservation of the living resources of a [particular] clearly defined part of the exclusive economic zone, a coastal State is of the view that additional [mandatory] measures are required for the control of [marine] pollution from vessels therein, the coastal State may, after consultation [through the competent international organization] with other States concerned, request the [competent international] organization to establish a special area for such part of its exclusive economic zone.
2. Such communication to the competent international organization shall contain the scientific and technical evidence in support of the establishment of a special area, information on necessary reception facilities, and notice of any intention of the coastal State to adopt additional laws and regulations for the control of pollution from vessels in such area. Such laws and regulations may relate to discharge or navigational practices, but not to design, construction, manning or equipment standards unless they are implementing generally accepted international regulation.
3. Within 12 months from the receipt of such communication, the organization shall determine whether the international regulation for the control of pollution from vessels are inadequate to meet the conditions of such part of the exclusive economic zone. If the organization so determines, the coastal State may adopt laws and regulations implementing such international regulation [, including navigational practices] or are made applicable through the organization for such special areas, for the control of pollution from vessels. Such laws and regulations do not apply to foreign vessels until 15 months from the receipt of such communication.
4. Within 12 months from the receipt of the notice by a coastal state of its intention to adopt additional laws and regulations for the control of marine pollution in such area, the organization shall determine whether such laws and regulations are required to meet the conditions in the area. If the organization so determines, the coastal State may adopt such additional laws and regulations. Such laws and regulations do not apply to foreign vessels until 15 months from the receipt of the communication.
5. The coastal State shall clearly indicate the limits of the special area on charts to which due publicity shall be given.

Article 212  
Pollution from the atmosphere

1. Within the air space under their sovereignty or with regard to vessels or aircraft flying their flag or of their registry, States shall adopt laws and regulations and take other measures, implementing international regulations and conforming with all relevant international regulations concerning the safety of air navigation, to control marine pollution from or through the atmosphere.<sup>13</sup>
2. Delete.
3. States, acting especially through competent international organizations or a general diplomatic conference, shall endeavour to establish international regulations to control marine pollution from or through the atmosphere.

Section 6. Enforcement

Article 213  
Enforcement with respect to  
pollution from land-based sources

States shall enforce their laws and regulations adopted pursuant to article 207. (They shall adopt laws and regulations and take other measures necessary to implement<sup>14</sup> applicable international regulations for the control of marine pollution<sup>15</sup> from land-based sources.)

13. The proposed changes in para. 1 aimed at removing the contradictions between para. 1 and article 222 (e.g. and "implementing").
14. This article contradicts article 207. How can a State implement international rules in article 213 and have the obligation to only "take into account" in article 207?
15. Articles 207 and 208 do not deal with the concept of "protection and preservation of the marine environment" as such.

Article 214

Enforcement with respect to  
pollution from sea-bed activities

States shall enforce these laws and regulations adopted pursuant to article 208, (They shall adopt... to implement applicable international regulation for the control of marine pollution for sea-bed activities or artificial islands, installations and structures under their jurisdiction.

Article 215.

Enforcement with respect to  
pollution from activities in  
the Area

Part XI governs the enforcement of international regulations for the control of marine pollution from activities in the Area.

Article 216

Enforcement with respect  
to dumping

1. Laws and regulations adopted pursuant to articles 210 and 210 bis and applicable international regulations for the control of marine pollution from dumping shall be enforced

- a) by the coastal State with regard to dumping within its territorial sea, its exclusive economic zone or into its continental shelf
  - b) by the flag or registry State with respect to its vessels or aircraft.
2. Paragraph 1 does not impose on any State an obligation to institute such proceedings when proceedings have already been instituted by another State.

Article 217. Enforcement by  
flag States with respect to  
pollution from vessels

1. Flag States shall ensure compliance by their vessels with:
- their laws and regulations adopted pursuant to article 211
  - applicable international regulations

for the control of pollution from vessels.

They shall provide for the (effective) enforcement of their laws and regulations and such international regulations, irrespective of where the violation occurred or has been spotted. Penalties provided for in their laws and regulations shall be adequate in severity to discourage violations by their vessels.

2. They shall adopt laws and regulations and take other measures to implement such international regulations. In particular, they shall take appropriate measures to ensure that their vessels are prohibited from sailing until they comply with such international regulations, including those relating to design, construction, manning and equipment of vessels.
3. Flag States shall ensure that their vessels
- carry on board certificates (required by and) issued pursuant to such international regulations
  - are periodically inspected to verify that the (actual) condition of the vessel correspond with the particulars of the certificates.

- comply with requests for information made by other States in accordance with this section.

These certificates shall be accepted by other States as evidence of the condition of the vessel and regarded as having the same force as the certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. Without prejudice to articles 218, 220 and 228, flag States shall provide for immediate investigation of any illegal violation by their vessels of applicable international regulations where the evidence so warrants. They shall institute proceedings in respect of such violation.
5. Flag States shall investigate at the written request of any other State any violation alleged to have been committed by their vessels. Where evidence so warrants, they shall institute without delay proceedings in respect of such violation. Flag States shall promptly inform that State and the competent international organization of the proceedings instituted and their outcome. Such information shall be available to all States.
6. Flag States may request the assistance of any other State when cooperation could be useful in clarifying the circumstances of an alleged violation.

Article 218. Enforcement by  
port States with respect to  
pollution from vessels

1. A port State may undertake investigation of vessels which are voluntarily in its ports or at its roadstead or port facilities outside its internal waters.
- 1bis A port State may institute proceedings against such vessel for violation in its territorial sea or exclusive economic zone of its laws and regulations adopted pursuant to this Part or of applicable international regulations. Where warranted by the evidence, it may institute proceedings, subject to paragraph 2, against such vessel for any discharge violation of applicable international regulations, irrespective of where the violation occurred.
2. No proceedings shall be instituted by a port State in respect of such discharge violation in the internal waters, the territorial sea or exclusive economic zone of another State unless

- requested by that State, the flag State , or the State damaged or threatened by such violation, or
  - the violation has caused or is likely to pollute the marine environment of the port State.
3. A port State shall comply as far as practicable, with a request for investigation of such discharge violation by a vessel referred to in paragraph 1
- a) made by a coastal State, with respect to such discharge violation believed to have occurred in, caused or threatened damage to, the marine environment of that State;
  - b) made by a flag State, irrespective of where the violation occurred.
4. The records of an investigation carried out by a port State pursuant to this article shall be transferred, at their request, to **the** coastal State or flag State.
- 4bis Subject to section 7, proceedings instituted by a port State pursuant to this article may be transferred to a coastal State at its request, when the discharge violation has occurred within the internal waters, territorial sea or exclusive economic zone of that State. The evidence, records of the case and any bond posted with the port State shall be transferred to the coastal State. Such transfer shall preclude the continuation of proceedings in the port State.

Article 219. Pollution control  
measures relating to seaworthiness  
of vessels

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Subject to section 7, a port State, which has determined that a vessel referred to in article 218, paragraph 1, does not comply with applicable international regulations relating to seaworthiness of vessels and thereby threatens to pollute the marine environment, shall take appropriate measures to prevent such vessel from sailing elsewhere than to the nearest appropriate repair yard. Upon rectification of the cause of the violation, the vessel shall be immediately allowed to proceed.

Article 220. Enforcement by  
coastal states with respect  
to pollution from vessels

1. Delete sec. 218(1) bis.
2. A coastal State, which has clear grounds for believing that a vessel has in its territorial sea, violated its laws and regulations (adopted pursuant to this Part) or applicable international regulations, may undertake physical inspection, in its territorial sea, of the vessel with respect to such violation (without prejudice to section 3 of Part II)  
  
When warranted by the evidence, the coastal State may institute proceedings (in accordance with its laws and regulations) against such vessel, including the detention of the vessel.
3. A coastal State, which has clear grounds for believing that a vessel has, in its exclusive economic zone, violated applicable international regulations or its laws and regulations implementing such international regulations, may require, in its territorial sea or exclusive economic zone, the vessel to give information regarding its identification, port of registry, last and next port of call, and other matters required to establish whether such violation has occurred.
4. Delete cf. 217(3)
5. A coastal State, which has clear grounds for believing that a (substantial) discharge in its territorial sea or exclusive economic zone by a foreign vessel in violation of applicable international regulations or of its laws and regulations implementing such international regulations causes or threatens significant marine pollution, may, where necessary, undertake physical inspection of the vessel in its territorial sea or exclusive economic zone with respect to the violation, where the vessel has refused to give the information requested by the coastal State or the information given is manifestly at variance with the evident factual situation.
6. Where the evidence so warrants, a coastal State may institute, subject to section 7, proceedings including the detention of the vessel, against a foreign vessel for a discharge violation, in its territorial sea or exclusive economic zone, which has caused or threatens major pollution of its marine environment.
7. Delete see. 226.

8. This article applies mutatis mutandis to the additional laws and regulations adopted by a coastal State pursuant to articles 211 bis and 234(16).
- (16) Note the added reference to article 234 "Ice-covered area"

Article 221. Measures relating  
to marine casualties

1. This Part is without prejudice to the rights of coastal States under international law (both customary and international) to take (and enforce) beyond their territorial sea, proportionate measures to protect their marine environment from actual or threatened pollution resulting from marine casualties which may reasonably be expected to cause major pollution.
2. For the purposes of paragraph 1, "marine casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage and imminent threat of material damage to a vessel or its cargo as well as acts related thereto.

Article 222. Enforcement with  
respect to pollution from  
the atmosphere

States shall enforce their laws and regulations adopted pursuant to article 212. (They shall adopt laws and regulations and take other measures necessary to implement (17) applicable international regulations for the control of marine pollution from or through the atmosphere, in conformity with all relevant international regulations concerning the safety of air navigation.)

(17) sec. 213 and 216.

Enforcement

Section 7.

- Article 223: No change
- Article 224: No change
- Article 225: Duty to avoid adverse consequences in the exercise of enforcement powers.

In the exercise of their power of enforcement under this Part, States shall not endanger the safety of navigation (bring a vessel to an unsafe port of anchorage, or otherwise create any hazard to a vessel) or expose the marine environment to an unreasonable threat of damage.

Investigation of foreign vessels

Article 226

1. States shall not delay a foreign vessel longer than is essential for an investigation referred to in articles 216, 218 and 220.
  - l**bis** Subject to paragraph 1, the investigation of a foreign vessel shall normally be limited to the examination of the certificates, documents, records and other documents \ that a vessel is required to carry by generally accepted international regulations or of other similar documents which it is carrying.
- 1 A physical inspection may only be undertaken when, after the investigation referred to in paragraph 1 bis
  - a) there are clear grounds for believing that the condition of the vessel (or its equipment) does not correspond substantially with the particulars of the examined documents;
  - b) the particulars of such documents are not adequate to verify a suspected violation of applicable international regulations or laws and regulations for the control of marine pollution
  - c) the vessel is not carrying valid documents
2. Even if the investigation indicates that a vessel has violated such international regulation or laws or regulations, the State shall release without delay a foreign vessel upon the posting of a bond or the giving of other financial security or when the State is bound by procedures to ensure compliance (by foreign vessels) with such bond or financial security.

Without prejudice to applicable international regulations relating to seaworthiness of vessels, the release of a foreign vessel may, when the sailing of the vessel may prevent an unreasonable threat of marine pollution, be refused or made subject to its proceeding to the nearest appropriate yard.

2bis. Flag States shall be notified without delay of the cases where the release of their vessels has been refused or made subject to their proceeding to a repair yard. (Flag States may bring an application for the release of their vessels in accordance with Part XV).

3. (Formerly para. 2)  
States shall co-operate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

Article 227: No Change  
Suspension of and restrictions on proceedings.

Article 228.

1. Except where the proceedings relate to a case of major damage to the marine environment of the coastal State, the coastal State shall, upon the institution within six months of corresponding proceedings by a flag State, which has not repeatedly disregarded article 217, paragraph 1, suspend its proceedings to impose penalties for a violation beyond its territorial sea of its laws and regulations for the control of marine pollution or applicable international regulations by a foreign vessel.
2. The flag State shall in due course make available to such coastal State a full dossier of the case and the records of the proceedings.
3. The suspended proceedings shall be terminated by the coastal State upon the conclusion of the proceedings instituted by the flag State. Any bond posted or other financial security provided in connexion with the terminated proceedings shall be released upon payment of related costs.
4. Proceedings to impose penalties shall be instituted against foreign vessels within three years from the date of the alleged violation.
5. Subject to paragraph 1, proceedings to impose penalties may be instituted or continued only by one State. This paragraph is without prejudice to the right of flag States to take any measures provided for in their laws and regulations, irrespective of prior proceedings instituted against their vessel by another State.

Article 229 : Civil proceedings (18)

This Part does not affect the institution of civil proceedings for damage from marine pollution. (18: Could be placed at the end of the section).

Article 230. Penalties

1. Monetary penalties only may be imposed by a coastal State to foreign vessels for a violation of its laws and regulations or applicable international regulations beyond its territorial sea.
2. Except with respect to a wilful and serious act of pollution, monetary penalties only may be imposed by a coastal State to foreign vessels for a violation in its territorial sea of its laws and regulations for the control of marine pollution or applicable international regulations.

Article 230 bis. Recognized rights of the accused

Recognized rights of the accused shall be observed in the proceedings to impose penalties for violations committed either within or beyond the territorial sea by a foreign vessel.

Article 231. Notification to flag States or other States concerned

1. Coastal States shall notify without delay the flag State and any other State concerned by the alleged violation of any enforcement measure taken pursuant to section 6 against a foreign vessel. They shall submit to the flag State all official reports concerning such measures.
2. With respect to violations in the territorial sea, paragraph 1 applied only to the measures taken in the actual proceeding. The consular officers or diplomatic agents and, where possible, the maritime authority of the flag State shall be without delay informed of any such measures.

Article 232. Liability of States for damage from enforcement measures

States shall be liable for damage attributable to them and resulting from enforcement measures which were unlawful or exceeded them reasonably required in the light of available information.

States shall provide for recourse in their courts for actions in respect of such damage.

Section 7 bis. Straits used  
for international navigation

Article 233. Application of  
sections 5, 6 and 7 to straits  
used for international navigation

Sections 5, 6 and 7 do not affect the legal regime of straits used for international navigation.

If a foreign vessel has committed a violation of the laws and regulations referred to in article 42, paragraphs 1(a) and (b) which causes or threatens major damage to the marine environment of the States bordering straits, such States may take appropriate enforcement measures. This section applies mutatis mutandis to such measures.

Section 8. Ice-covered Areas

Article 234. Ice-covered areas

Coastal States have the right to enforce the non-discriminatory laws and regulations which they have adopted for the prevention, reduction and control of marine pollution from vessels in parts of their exclusive economic zones in which particularly severe climatic conditions and the presence of ice for most of the year create obstructions or exceptional hazards to navigation, and in which marine pollution is likely to cause major damage to the marine environment or irreversible disturbance of the ecological balance.

The adoption of such laws and regulations by the coastal State shall, taking into account the best scientific evidence available, have due regard for the navigation and the protection and preservation of the marine environment.

Section 9. Responsibility  
and Liability

Article 235. Responsibility  
and Liability

1. States are responsible and shall be liable in accordance with international law, for the performance of their obligations under this Part.

2. States shall ensure that recourse is available against persons under their jurisdiction for prompt and adequate compensation or relief for damage from marine pollution.
3. To ensure such prompt and adequate compensation or relief, States shall co-operate in the implementation of international law and the further development of international law relating to:
  - responsibility and liability;
  - assessment of, and compensation for, damage;
  - settlement of related disputes.

They shall co-operate, where appropriate, for the development of criteria and procedures for prompt and adequate compensation such as through the establishment of compulsory insurance or compensation funds.

#### Section 10. Sovereign Immunity

#### Article 236. Sovereign Immunity

This Part does not apply to every warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service. Each State shall ensure by the adoption of appropriate measures which do not impair the (operation or) operational capabilities of these vessels or aircraft that they act in a manner compatible, so far as it is reasonable and practicable, with this Part.

#### Section 11. Obligations under Special and Future Conventions on the Protection and Preservation of the Marine Environment

#### Article 237. Obligations under Special and Future Conventions on the Protection and Preservation of the Marine Environment

1. This Part is without prejudice to the specific obligations assumed by States under special conventions (or agreements) concluded prior to this Convention and

which relate to the protection and preservation of the marine environment. Such obligations shall be carried out in a manner compatible with the general principle and objectives of this Part.

2. This Part is without prejudice to other conventions or agreements which may be concluded (in the future) in implementation of the general principle and objectives of this Part.