

These traditional rules are now in the process of being reviewed in light of the additional rights envisaged for coastal states, both as regards more extensive limits for the territorial sea and new powers for the control of marine pollution. The next sections will attempt to describe some of the effects these new concepts may have, among other things, on navigation.

The Territorial Sea

One of the major decisions the Conference will have to take will be to determine the breadth of the territorial sea, as it was impossible to arrive at any agreement on this question at the first two conferences in 1958 and 1960. It would seem safe to conjecture that if any limit is to be retained by the coming Conference, it will coincide with the twelve-mile limit. Firstly, a majority of coastal nations have chosen that limit for their own territorial waters and secondly, in the Conference's preparatory committee itself, a majority of states have tabled proposals (in particular those dealing with the economic zone) which refer to the territorial sea as measuring 12 miles. However, in this latter instance, the acceptance of the limit by the developing nations is contingent upon the establishment of an economic zone of 188 miles beyond the territorial sea. Likewise, those states still holding to the traditional three-mile limit would be ready to move to twelve miles only if their own proposals concerning free transit through straits are dealt with satisfactorily at the Conference.

Canada, for its part, established its own territorial sea at twelve miles in 1970 and would like to see the Conference agree on such a breadth provided coastal states' interests in the marine environment are adequately protected.

It is not clear from the terms of the 1958 Convention on the Territorial Sea whether the doctrine of innocent passage would allow the coastal state to suspend the passage of a foreign vessel which may result in pollution of its environment. Canada, which asserts that such a right exists, will seek confirmation of this view.