

United Nations Conference on the Law of the Sea

Geneva, Switzerland
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Documents:
A/CONF.13/C.3/L.30-66

Annexes

Extract from the *Official Records of the United Nations Conference on the Law of the Sea, Volume V (Third Committee (High Seas: Fishing: Conservation of Living Resources))*

DOCUMENT A/CONF.13/C.3/L.30**Poland and Union of Soviet Socialist Republics: proposal**

[Original text : Russian]
[26 March 1958]

Article 56

PARAGRAPH 1

Draft this paragraph as follows :

“ Any State which, even if its nationals are not engaged in fishing in any area of the high seas, has an interest in the conservation of the living resources of that area, is entitled to take part on an equal footing in any research organization or system of regulation in that area, and may also request the State whose nationals are engaged in fishing there to take the necessary measures of conservation.”

PARAGRAPH 2

Delete this paragraph.

DOCUMENT A/CONF.13/C.3/L.31**Uruguay: proposal**

[Original text : Spanish]
[26 March 1958]

Articles 52, 53 and 56

Replace the words “ a reasonable period of time ” by the words “ a period of six months ”.

DOCUMENT A/CONF.13/C.3/L.32**Japan: proposal**

[Original text : English]
[26 March 1958]

Article 51

Replace the text by the following :

- “ 1. A State whose nationals are engaged in fishing certain stock or stocks of fish or other marine resources in any area of the high seas where the nationals of other States are not thus engaged, shall adopt measures for regulating and controlling fishing of such living resources in that area when necessary for the purpose of their conservation.
- “ 2. Due publicity must be given of any measures adopted under the preceding paragraph.”

Article 52

Replace the words “ within a reasonable period of time ” in paragraph 2 by the words “ within one year ”.

Article 53

Replace the words “ within a reasonable period of time ” in paragraph 2 by the words “ within one year ”.

DOCUMENT A/CONF.13/C.3/L.33**Japan: proposal**

[Original text : English]
[26 March 1958]

Articles 54 to 56

Replace these articles by the following single article :

“ 1. Any State which, even if its nationals are not engaged in fishing certain stock or stocks of fish or other marine resources in an area of the high seas, has a special interest in the conservation of such living resources in that area, may request the State whose nationals are engaged in fishing such living resources there to take the necessary measures of conservation.

“ 2. If no agreement is reached within one year, such State may initiate the procedure contemplated by article 57.”

DOCUMENT A/CONF.13/C.3/L.34**Republic of Korea: proposal**

[Original text : English]
[26 March 1958]

Article 52

ADDITIONAL PARAGRAPH

Insert a new paragraph after paragraph 1 to read as follows :

“ 2. Notwithstanding paragraph 1, the existence of such negotiations between the States concerned for the purpose of adopting conservation measures does not prevent the coastal State from invoking article 54 or article 55.”

PARAGRAPH 2

Paragraph 2 shall accordingly be numbered paragraph 3.

DOCUMENT A/CONF.13/C.3/L.35**Mexico: proposal**

[Original text : Spanish]
[26 March 1958]

Article 51

Between the words “ high seas ” and the words “ where the nationals ”, insert the phrase : “ not contiguous to the coasts of another State ”.

Article 52

PARAGRAPH 1

Between the words “ high seas ” and the words “ these States ”, insert the phrase : “ not contiguous to the coasts of another State ”.

DOCUMENT A/CONF.13/C.3/L.36**Sweden: proposal**

[Original text : English]
[26 March 1958]

Article 52

PARAGRAPH 1

Insert in the first sentence “ regularly ” before the word “ engaged ”.

PARAGRAPH 2

Replace the words : “ within a reasonable time ” by the words “ within twelve months ”.

Article 53

PARAGRAPH 2

- (1) In the first sentence replace the words : " within a reasonable time " by the words : " within twelve months " .
 (2) Delete the second sentence of the paragraph.

Article 54 *

Delete the article.

Article 55 *

Delete the article.

* At the 23rd meeting, the Federal Republic of Germany and Japan asked to be included as co-sponsors.

Article 56

PARAGRAPH 1

Delete the words : " not adjacent to its coast " .

PARAGRAPH 2

Replace the words : " within a reasonable time " by the words " within twelve months " .

Article 57

PARAGRAPH 5

Replace the words : " three months " by the words : " four months " .

Article 58

Delete the article.

DOCUMENT A/CONF.13/C.3/L.37**Spain: proposal**

[Original text : Spanish]
 [26 March 1958]

Article 51

Between the words " are " and " engaged ", insert the word " normally " .

Article 52

PARAGRAPH 1

1. Between the words " are " and " engaged " insert the word " normally " .

PARAGRAPH 2

2. Substitute " a period of twelve months " for " a reasonable period of time " .

Article 53

PARAGRAPH 2

Substitute " a period of twelve months " for " a reasonable period of time " .

Article 54

PARAGRAPH 1

1. At the end of the paragraph, add the phrase " whose depth does not exceed isobath five hundred metres " .

PARAGRAPH 3

2. Substitute " a period of twelve months " for " a reasonable period of time " .

Article 55

For the text adopted by the International Law Commission, substitute the following :

" 1. Having regard to the provisions of paragraph 1 of article 54, any coastal State shall, with a view to the maintenance of the productivity of the living resources of the sea, notify (the United Nations Secretariat) of its intention to adopt within a period of twelve months, specific unilateral measures of conservation for any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations with the other States concerned have produced no agreement on such measures of conservation.

" 2. If the said measures are considered unacceptable by the other States concerned, any of the parties may initiate, within the prescribed period of twelve months, the procedure contemplated by article 57, the introduction of the measures being left in abeyance pending the arbitral decision.

" 3. The measures which the coastal State proposes to adopt under paragraph 1 above shall be valid as to other States only if the following requirements are fulfilled :

- (a) That scientific evidence shows that there is an urgent need for measures of conservation ;
- (b) That the measures proposed are based on appropriate scientific findings ;
- (c) That such measures do not discriminate against foreign fishermen."

Article 56

PARAGRAPH 2

Substitute " a period of twelve months " for " a reasonable period " .

DOCUMENT A/CONF.13/C.3/L.38**Portugal: proposal**

[Original text : French]
[26 March 1958]

Article 52

At the end of the article, add the following : “ and shall set up a regional fisheries board to ensure that these measures are effective and that they are carried out by member States ”.

Article 53

Add a new paragraph as follows :

“ States which are newcomers shall automatically be invited to join any regional fisheries board for the area in question.”

DOCUMENT A/CONF.13/C.3/L.39**Netherlands: proposal**

[Original text : English]
[26 March 1958]

Articles 51, 52 and 56**FIRST ALTERNATIVE**

1. Delete article 56.

2. Add to article 51 a paragraph 2, worded as follows :

“ If such State does not comply with this obligation, any other State which has a special interest in the conservation of the living resources in the said area, even if not adjacent to its coast, may request it to take the necessary measures of conservation, failing which within a reasonable period it may initiate the procedure contemplated by article 57.”

3. Replace paragraph 1 of article 52 by the following text :

“ 1. If the nationals of two or more States are engaged in fishing the same stock or stocks of fish or other marine resources in any area of the high seas, these States shall, at the request of any of them or at the request of any other State which has a special interest in the conservation of the living resources in that area, enter into negotiations with a view to prescribing by agreement the necessary measures for the conservation of such resources.”

SECOND ALTERNATIVE

In paragraph 1 of article 56, insert between “ the State ” and “ whose nationals ” the words “ or States ”, and at the end add “ under articles 51 or 52 respectively ”.

DOCUMENT A/CONF.13/C.3/L.40**United States of America: proposal**

[Original text : English]
[27 March 1958]

Article 53**PARAGRAPH 1**

1. Substitute the word “ any ” for the words “ the same ”, and insert the words “ or areas of the high seas ” after the word “ area ”.

2. Add the words “ [] months after the date on which the measures have been notified to the Director-General of the Food and Agriculture Organization of the United Nations ”.

Comments

The foregoing amendments are proposed (1) in order that the term "area of the high seas" be broadened to include "areas", since the same stock of fish or other marine resource might inhabit more than one area of the high seas at different seasons of the year or stages of its life cycle and be fished by the nationals of different States at those times, and (2) to reduce the possibility of misunderstanding on the part of third States by a requirement of advance notification of conservation measures in a regularized manner.

DOCUMENT A/CONF.13/C.3/L.41***Chile, Costa Rica, Ecuador and Peru: proposal**

[Original text : Spanish]
[27 March 1958]

Articles 54 and 55

Replace articles 54 and 55 by a single text, as follows :

- "1. In addition to the right established by article 49 to make use of the resources of the sea, a coastal State has a special right, inherent in its geographical situation, to adopt measures for their conservation and to regulate and control their exploitation in an area of sea adjacent to its territorial sea or to its contiguous zone, as the case may be.
- "2. Other States may not object to the provisions which a coastal State may adopt for that area, based on the conservation of the living resources of the sea and on the subsistence and economic development needs of its population, provided such provisions do not exclude foreign fishermen who comply therewith from the exploitation of those resources.
- "3. The provisions referred to in the preceding paragraph

* Incorporating A/CONF.13/C.3/L.41/Corr.1.

shall be based on scientific investigations and findings showing the need for them.

"4. When it is necessary to restrict the scale of fishing, a coastal State applying measures of conservation may require the nationals of other States who have been authorized to fish in that area to refrain entirely or partially from doing so for the period of time which may be necessary for a sufficient yield to be restored.

"5. When, in order to conserve the living resources of an area of sea, co-operation with other States is deemed desirable, because they are coastal States bordering the same sea or because their nationals are engaged in fishing in the said area, the coastal State shall institute negotiations with those States with a view to the adoption of joint conservation measures. Should no agreement be reached, however, the measures adopted by the coastal State by virtue of the preceding paragraphs shall continue in force.

"6. A coastal State shall have the right to join any research organization and to participate in any system of investigation set up by other States or international organizations in respect of the said area of sea."

DOCUMENT A/CONF.13/C.3/L.42**Union of Soviet Socialist Republics: proposal**

[Original text : Russian]
[28 March 1958]

Articles 54 and 55

Articles 54 and 55 to be merged to form one article, reading as follows :

- "1. Any coastal State having a special interest in the maintenance of the productivity of the living resources of any area of the high seas adjacent to its territorial sea may, to this end, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within a reasonable period of time.
- "2. The measures which the coastal State adopts under the

previous paragraph shall be valid as to other States only if the following requirements are fulfilled :

- (a) That scientific evidence shows that there is an urgent need for measures of conservation ;
- (b) That the measures adopted are based on appropriate scientific findings ;
- (c) That they do not discriminate against foreign fishermen ;
- (d) That they are essential, in order to ensure that the general steps taken by that State to safeguard the reproduction of the living marine resources are effective."

DOCUMENT A/CONF.13/C.3/L.42/Rev.1**Union of Soviet Socialist Republics: proposal**

[Original text : Russian]
[8 April 1958]

Article 55

Add the following new sub-paragraph (d) to paragraph 2 :

“(d) That they are essential in order to ensure that the large-scale measures taken by that State to safeguard the reproduction of the living resources of the sea are effective.”

DOCUMENT A/CONF.13/C.3/L.43**Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland and United States of America: proposal**

[Original text : English]
[28 March 1958]

Article 54

1. In paragraph 2, after “regulation” insert “for conservation purposes”.
2. Insert new paragraph 3, worded as follows :
“3. Any State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall, at the request of that coastal State, enter into negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.”
3. Paragraph 3 would then become paragraph 4. In this paragraph after “agreement” insert “with respect to conservation measures”.

DOCUMENT A/CONF.13/C.3/L.44**United Kingdom of Great Britain and Northern Ireland: proposal**

[Original text : English]
[28 March 1958]

Article 55

Delete paragraphs 2 and 3 of the article and substitute the following :

“2. Where a coastal State has adopted measures under paragraph 1 above other States concerned shall require their own nationals to observe such measures provided only that :

- (a) Reasonable prior notice of the intention to introduce

the conservation measures shall have been given by the coastal State and the measures in question have been duly publicized ; and

(b) It shall have been demonstrated to the satisfaction of the appropriate body under article [57] that, pending a further or a final determination of the points in dispute, there is a prima facie case for taking some or all of the proposed conservation measures and those measures do not discriminate in form or in fact against foreign fishermen.”

DOCUMENT A/CONF.13/C.3/L.45**Republic of Korea: proposal**

[Original text : English]
[28 March 1958]

Article 54

1. Insert the following paragraph after paragraph 1 :
“2. A coastal State, which has made sacrifices in its efforts to conserve the living resources and increase the

productivity of these resources, through restraints on its own fishermen, in any area mentioned in the preceding paragraph 1, may require other States to refrain from fishing in the said area until such time as a sufficient yield from the resources has been restored.”

2. Re-number paragraphs 2 and 3 of the draft as 3 and 4 respectively.

Article 55

PARAGRAPH 1

Replace the words "provisions of paragraph 1 of article 54" by the words "provisions of paragraphs 1 and 2 of article 54,".

PARAGRAPH 2

1. Delete sub-paragraph (a).
2. Insert the word "unduly" between the words "discriminate" and "against" in sub-paragraph (c).
3. Renumber sub-paragraphs (b) and (c) as (a) and (b) respectively.

PARAGRAPH 3

Replace the last sentence by the following: "The measures adopted shall remain obligatory pending a final decision."

DOCUMENT A/CONF.13/C.3/L.46

Norway: proposal

[Original text: English]
[29 March 1958]

Article 55

PARAGRAPH 3

Add a new paragraph 3 worded as follows :

- "3. The coastal State may not exercise the right described in this article in areas of the high seas situated
- (a) more than * miles from its baseline, or
 - (b) closer to the baseline of another State than to its own baseline, or
 - (c) adjacent to uninhabited coasts."

* To be decided after discussion in the Committee.

DOCUMENT A/CONF.13/C.3/L.47

France, Federal Republic of Germany, Italy, Japan, Netherlands, United Kingdom of Great Britain and Northern Ireland and Yugoslavia: proposal

[Original text: English]
[29 March 1958]

Article 51

1. After the words "engaged in fishing" insert the words "any stock or stocks of fish or other living marine resources".
2. After the words "shall adopt" insert the words "for its own nationals".
3. Delete the words "for regulating and controlling fishing activities".

4. Replace the words "the living resources of the high seas" by the words "those living resources".

Note.— This proposal replaces the proposals concerning article 51 submitted by France (A/CONF.13/C.3/L.3), the Federal Republic of Germany (A/CONF.13/C.3/L.4), Italy (A/CONF.13/C.3/L.24), Japan (A/CONF.13/C.3/L.32), the Netherlands (A/CONF.13/C.3/L.39), the United Kingdom of Great Britain and Northern Ireland (A/CONF.13/C.3/L.28) and Yugoslavia (A/CONF.13/C.3/L.9).

DOCUMENT A/CONF.13/C.3/L.48

France, Federal Republic of Germany, Italy, Japan, Netherlands, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland and Yugoslavia: proposal

[Original text : English]
[29 March 1958]

Article 52

PARAGRAPH 1

- (a) Before the words "marine resources" insert the word "living".
- (b) After the words "in any area" insert the words "or areas".
- (c) After the words "with a view to prescribing by agreement" insert the words "for their nationals".

PARAGRAPH 2

Replace the words "within a reasonable period of time" by the words "within twelve months".

Note. — This proposal replaces the proposals concerning article 52 submitted by France (A/CONF.13/C.3/L.3), the Federal Republic of Germany (A/CONF.13/C.3/L.4), Italy (A/CONF.13/C.3/L.24, A/CONF.13/C.3/L.25), Japan (A/CONF.13/C.3/L.32), Netherlands (A/CONF.13/C.3/L.39), Portugal (A/CONF.13/C.3/L.38), Sweden (A/CONF.13/C.3/L.36), the United Kingdom of Great Britain and Northern Ireland (A/CONF.13/C.3/L.28) and Yugoslavia (A/CONF.13/C.3/L.10).

DOCUMENT A/CONF.13/C.3/L.50

India: proposal

[Original text : English]
[31 March 1958]

Article 49

Add a new paragraph 2 to read as follows :

"2. A coastal State shall have exclusive fishing rights up to a distance of twelve nautical miles measured from the baseline."

DOCUMENT A/CONF.13/C.3/L.51

India: proposal

[Original text : English]
[31 March 1958]

Article 60

PARAGRAPH 1

Delete the words "provided that non-nationals are permitted to participate in such activities on an equal footing with nationals".

DOCUMENT A/CONF.13/C.3/L.55**France, Netherlands, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: proposal**

[Original text : English]
[31 March 1958]

Article 53

1. Insert the word "living" before the words "marine resources".
2. Replace the words "in the same area, the conservation measures shall be applicable to them" by the following "in any area or areas of the high seas, the other States shall apply the measures to their nationals no later than seven months after the date on which the measures shall have been notified to the Director-General of the Food and Agriculture Organization of the United Nations. The Director-General shall notify such measures to any State which so requests and in any case to any State specified by the State initiating the measure."

DOCUMENT A/CONF.13/C.3/L.59**Netherlands: proposal**

[Original text : English]
[3 April 1958]

Article 57

Replace paragraphs 2 to 5 by the following :

"2. Two members of the arbitral commission shall be named by the State or States on the one side of the dispute, and two members by the State or States contending to the contrary, but only one of the members nominated by each side may be a national of a State on that side. If, within a period of one month from the date of the request for arbitration, there shall be a failure by those on either side in the dispute to name any member, such member or members shall, upon the request of any party, be named by the Secretary-General of the United Nations after consultation with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations.

"3. The remaining three members, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute. Failing agreement within two months from the date of the request for arbitration they shall, upon the request of any State party, be nominated by the Secretary-General of the United Nations, after the same consultation, from nationals of countries not parties to the dispute.

"4. If the parties to the dispute fall into more than two opposing groups, the arbitral commission shall, at the

request of any of the parties, be appointed by the Secretary-General of the United Nations, after consultation with the President of the International Court of Justice and the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well qualified persons specializing in legal, administrative or scientific questions relating to fisheries, depending upon the nature of the dispute to be settled.

"5. The arbitral commission shall in all cases be constituted within three months from the date of the request for arbitration.

"6. Any vacancy arising after the appointment shall be filled in the same manner as provided in paragraphs 2, 3 and 4 for the initial selection.

"7. The arbitral commission shall determine its own procedure. It shall render its decision within five months from the date of its constitution unless it decides, in case of necessity, to extend the time limit. It shall also determine the amount of the costs and expenses and how these shall be divided between the parties."

Note. — This amendment is intended to arrange the subject matter in a more systematic way, i.e., to remove an inconsistency between paras. 2 and 5 of the International Law Commission's draft in respect of the delays prescribed for the composition of the arbitral commission.

DOCUMENT A/CONF.13/C.3/L.60**Philippines and Republic of Viet-Nam: proposal**

[Original text : English]
[3 April 1958]

Article 54

Insert the following paragraph after paragraph 1 :

“2. If the inhabitants of a coastal State who engage in fishing do so mainly on the coasts of that State, and derive their subsistence as well as that of other inhabitants largely from such fishing, they shall have a preferential right to fish in any area mentioned in paragraph 1 of this article ; however, no coastal state shall have any right to prohibit fishing in such area by the inhabitants of other States after the needs of its population have been reasonably secured.”

Note. — This proposal replaces the proposal concerning article 54 submitted previously by the Philippines (A/CONF.13/C.3/L.5).

DOCUMENT A/CONF.13/C.3/L.61**Union of Soviet Socialist Republics: proposal**

[Original text : Russian]
[7 April 1958]

Articles 57 to 59

Replace articles 57, 58 and 59 by the following :

“Any dispute on questions relating to fishing on the high seas may, unless the parties can reach agreement within a reasonable period of time, be submitted to the International Court of Justice for consideration or referred to arbitration in accordance with the Statute of the Court and the agreements in force.”

DOCUMENT A/CONF.13/C.3/L.62**Norway: proposal**

[Original text : English]
[8 April 1958]

Article 59 A

Insert the following article after article 59 :

“1. If the factual basis of the arbitral award is altered by substantial changes in the conditions of the stock or stocks of fish or other living marine resources or in methods of fishing, any of the States concerned may request the other States to enter into negotiations with a view to prescribing by agreement the necessary modifications in the measures of conservation.

“2. If no agreement is reached within a reasonable period of time, any of the States concerned may again resort to the arbitration procedure contemplated by article 57 provided that at least two years have elapsed from the original arbitral award.”

DOCUMENT A/CONF.13/C.3/L.63**Norway: proposal**

[Original text : English]
[8 April 1958]

Article 59 B

Insert the following article after article 59 :

“A State party to a special agreement which provides procedures for adopting conservation measures may not, without the consent of the other States parties to the agreement, invoke the rights accorded in paragraph 2 of article 52, and in article 55 as against these parties in respect of measures which fall within the scope of the special agreement.”

DOCUMENT A/CONF.13/C.3/L.64**Republic of Korea: proposal**

[Original text : English]
[8 April 1958]

Articles 57 to 59

Replace article 57, 58 and 59 by the following single article :

“In the case of any disagreement between States under articles 52, 53, 54, 55 and 56, the parties in dispute shall seek a solution of the dispute in accordance with the provisions of Article 33 of the Charter of the United Nations.”

DOCUMENT A/CONF.13/C.3/L.65**Burma, Chile, Costa Rica, Ecuador, Indonesia, Republic of Korea, Mexico, Nicaragua, Philippines, Republic of Viet-Nam and Yugoslavia: proposal**

[Original text : English]
[8 April 1958]

Article 54

After paragraph 2 add the following paragraph 3 :

“3. A State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a coastal State shall not enforce conservation measures in that area without the concurrence of the coastal State(s) but may enter into negotiations with the coastal State(s) with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.”

Note. — The present proposal replaces the proposals relating to article 54 submitted by Chile, Costa Rica, Ecuador and Peru (A/CONF.13/C.3/L.41), and paragraphs 1 and 5 of the proposal submitted by Yugoslavia in document A/CONF.13/C.3/L.13.

DOCUMENT A/CONF.13/C.3/L.66**Burma, Chile, Costa Rica, Ecuador, Indonesia, Republic of Korea, Mexico, Nicaragua, Philippines, Republic of Viet-Nam and Yugoslavia: proposal**

[Original text : English]
[8 April 1958]

Article 55**PARAGRAPH 1**

Delete the phrase “provided that negotiations to that effect with the other States concerned have not led to an agreement within a reasonable period of time”, and add the following: “Any concerned State may initiate negotiations with the coastal State to work out joint conservation measures, but pending agreement the measures adopted by the coastal State shall remain in force”.

PARAGRAPH 2

Replace paragraph 2 by the following :

“2. The measures adopted shall be based on appropriate scientific findings and shall not discriminate against foreign fishermen.”

PARAGRAPH 3 AND ADDITIONAL PARAGRAPH

After paragraph 2 insert the following paragraphs 3 and 4 :

“3. The fishing interests of the coastal State should receive special consideration if restrictions are imposed on the intensity of fishing.

“4. The principles of geographical demarcation as defined in articles 12 and 14 shall be adopted when coasts of different States are involved.”

Note. — The present proposal replaces the amendments concerning article 55 submitted by Chile, Costa Rica, Ecuador and Peru in document A/CONF.13/C.3/L.41, and paragraph 2, the first sentence of paragraph 3 and paragraph 4 of the proposal submitted by Yugoslavia in document A/CONF.13/C.3/L.13.