

# **United Nations Conference on the Law of the Sea**

Geneva, Switzerland  
24 February to 27 April 1958

## **Annexes**

### **Articles 49 to 60 of the Draft of the International Law Commission (A/3159)**

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))*

## ANNEXES

*(Note. — For the contents of these annexes, see Index to documents of the Third Committee, p. viii of the present volume.)*

## ARTICLES 49 TO 60 OF THE DRAFT OF THE INTERNATIONAL LAW COMMISSION (A/3159)

### SUB-SECTION B. FISHING

#### RIGHT TO FISH

##### Article 49

All States have the right for their nationals to engage in fishing on the high seas, subject to their treaty obligations and to the provisions contained in the following articles concerning conservation of the living resources of the high seas.

#### CONSERVATION OF THE LIVING RESOURCES OF THE HIGH SEAS

##### Article 50

As employed in the present articles, the expression "conservation of the living resources of the high seas" means the aggregate of the measures rendering possible the optimum sustainable yield from those resources so as to secure a maximum supply of food and other marine products.

##### Article 51

A State whose nationals are engaged in fishing 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 activities in that area when necessary for the purpose of the conservation of the living resources of the high seas.

##### Article 52

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, enter into negotiations with a view to prescribing by agreement the necessary measures for the conservation of such resources.
2. If the States concerned do not reach agreement within a reasonable period of time, any of the parties may initiate the procedure contemplated by article 57.

##### Article 53

1. If, subsequent to the adoption of the measures referred to in articles 51 and 52, nationals of other States engage in fishing the same stock or stocks of fish or other marine resources in the same area, the conservation measures adopted shall be applicable to them.
2. If these other States do not accept the measures so adopted and if no agreement can be reached within a reasonable period of time, any of the interested parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the arbitral decision.

##### Article 54

1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.
2. A coastal State is entitled to take part on an equal footing in any system of research and regulation in that area, even though its nationals do not carry on fishing there.
3. If the States concerned do not reach agreement within

a reasonable period of time, any of the parties may initiate the procedure contemplated by article 57.

##### Article 55

1. Having regard to the provisions of paragraph 1 of article 54, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, 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 such measures do not discriminate against foreign fishermen.
3. If these measures are not accepted by the other States concerned, any of the parties may initiate the procedure contemplated by article 57. Subject to paragraph 2 of article 58, the measures adopted shall remain obligatory pending the arbitral decision.

##### Article 56

1. Any State which, even if its nationals are not engaged in fishing in an area of the high seas not adjacent to its coast, has a special interest in the conservation of the living resources in that area, may request the State whose nationals are engaged in fishing there to take the necessary measures of conservation.
2. If no agreement is reached within a reasonable period, such State may initiate the procedure contemplated by article 57.

##### Article 57

1. Any disagreement arising between States under articles 52, 53, 54, 55 and 56 shall, at the request of any of the parties, be submitted for settlement to an arbitral commission of seven members, unless the parties agree to seek a solution by another method of peaceful settlement.
2. Except as provided in paragraph 3, two members of the arbitral commission shall be named by the State or States on the one side of the dispute, and two members shall be named 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. The remaining three members, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute. Failing agreement they shall, upon the request of any State party, be nominated 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 United Nations Food and Agriculture Organization, from nationals of countries not parties to the dispute. If, within a period of three months 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,

after such consultation, by the Secretary-General of the United Nations. Any vacancy arising after the appointment shall be filled in the same manner as provided for the initial selection.

3. 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 United Nations Food and Agriculture Organization, 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. Any vacancy arising after the appointment shall be filled in the same manner as provided for the initial selection.

4. Except as herein provided, the arbitral commission shall determine its own procedure. It shall also determine how the costs and expenses shall be divided between the parties.

5. The arbitral commission shall in all cases be constituted within three months from the date of the original request and shall render its decision within a further period of five months unless it decides, in case of necessity, to extend that time limit.

#### Article 58

1. The arbitral commission shall, in the case of measures

unilaterally adopted by coastal States, apply the criteria listed in paragraph 2 of article 55. In other cases it shall apply these criteria according to the circumstances of each case.

2. The arbitral commission may decide that pending its award the measures in dispute shall not be applied.

#### Article 59

The decisions of the arbitral commission shall be binding on the States concerned. If the decision is accompanied by any recommendations, they shall receive the greatest possible consideration.

### FISHERIES CONDUCTED BY MEANS OF EQUIPMENT EMBEDDED IN THE FLOOR OF THE SEA

#### Article 60

The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State, may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals. Such regulations will not, however, affect the general status of the areas as high seas.

## DOCUMENT A/CONF.13/C.3/L.1

### Mexico: proposal

[Original text: Spanish]  
[7 March 1958]

#### Articles 57 to 59

Replace the text of the draft articles 57, 58 and 59 prepared by the International Law Commission by the following text:

“Disputes concerning the matters to which the present provisions relate shall be settled by the States concerned by the modes of pacific settlement provided for in Article 33 of the Charter of the United Nations.”

If the above proposal is approved, it will be necessary to make the corresponding changes in articles 52 to 56 inclusive.

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

### France: proposal

[Original text: French]  
[13 March 1958]

#### Article 51

Replace the draft article by the following text:

“A State whose nationals are engaged in fishing in any area of the high seas where the nationals of other States are not thus engaged, shall adopt such measures as may be required in those circumstances for regulating and controlling fishing activities in that area when necessary for the purpose of the conservation of the living resources of the high seas.”

#### Article 52

##### PARAGRAPH 2

Replace the words “within a reasonable period of time” by the words “within two years”.

#### Article 53

##### PARAGRAPH 2

Replace the words “within a reasonable period of time” by the words “within two years”.