

United Nations Conference on the Law of the Sea

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Summary Records of the 11th to 15th Meetings of the Third Committee

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))*

Those documents set forth the main aspirations of his country, which could be summed up as consisting of the special right of a State to exploit natural resources, regulate fishing and adopt methods for conserving the living resources of the sea in a zone adjacent to its territorial sea. In support of that claim he would ask whether other countries would be prepared to look on with indifference while foreign fleets, sometimes of no well-defined nationality, exploited a form of natural wealth which constituted an essential source of food for people valiantly struggling to secure even a modest existence.

32. The importance of fisheries to Chile was evident having regard to its geographical position. Some two-thirds of its total area was either mountainous or desert and only one-third was cultivable. Great efforts would be made to increase agricultural production, but it was unlikely that the increase would keep pace with the growth in the population. According to statistics published by the Food and Agriculture Organization of the United Nations, 3.2 metric tons of fish per thousand inhabitants were being landed in the country, which was the eighth in the world in regard to the quantity of fish caught per inhabitant.

33. The choice of the 200-mile limit in 1947 had not been at all fortuitous. It had been based on a serious study on the effects of the Humbolt current, the outer fringe of which lay about 200 miles from the Chilean coast. The scientific arguments in support of his country's case had been brilliantly expounded by the representative of Peru, who had demonstrated the need for protecting the biological complex, which experts described as the "bioma". Some delegations had argued that protection should be confined to one or more individual species. On the other hand, there was no essential contradiction between the view that all species should be protected or that some should be protected, and the protection of the "bioma" did not exclude the simultaneous conservation of a migratory species. The essential point was that the resources of the sea should be protected. Arguments in favour of the freedom of fishing had been based on the inexhaustibility of those resources, but they were no longer valid.

34. His country had been particularly interested in one of the resolutions adopted by the third meeting of the Inter-American Council of Jurists, held in Mexico in 1956, which attributed to a coastal State the right to adopt measures of conservation to protect the living resources of the sea adjacent to its coast. Efforts had been made to under-estimate the value of that resolution, but he would ask how delegations which quoted Gidel and other legal authorities could overlook the considered opinion of distinguished representatives of the American legal world.

35. At the Inter-American Specialized Conference on Conservation of Natural Resources held in the same year it had been recognized that a coastal State had a special interest in conservation, but later it had been stated that there was no agreement on the nature or the scope of that special interest. It was obvious that, on a resolution designed for unanimous adoption, there could be no agreement if any State dissented, but there was no doubt that Latin-American legal experts had developed a principle which was now being applied throughout the world. If that had been understood in good time,

there would in all probability have been no need to summon the present conference, and agreement would have been reached on the law of the sea in more favourable circumstances during the eleventh session of the General Assembly.

36. Finally, he pointed out that the International Law Commission had virtually put the coastal State on the same footing as a State protecting the interests of its fishing companies, since the former was only permitted to adopt measures of conservation if no agreement had been reached with any other interested State. That meant that the right to take conservation measures would rest in the first place with the latter State, while the State that would suffer most directly from predatory action was only allowed to play a passive and subsidiary role. In his delegation's view, that provision was unjust and resembled the open-door policy whereby the supervision of lunatics was entrusted to the lunatics themselves. Only a coastal State was in a position to adopt a prudent conservation policy untainted by the motive of profit.

The meeting rose at 4.30 p.m.

ELEVENTH MEETING

Wednesday, 19 March 1958, at 3.20 p.m.

Chairman: Mr. Carlos SUCRE (Panama)

Consideration of the draft articles adopted by the International Law Commission at its eighth session (articles 49 to 60) (A/3159) (continued)

General debate (continued)

STATEMENTS BY MR. QURESHI (PAKISTAN), MR. OLAFSSON (ICELAND), MR. GOHAR (UNITED ARAB REPUBLIC), MR. TREJOS FLORES (COSTA RICA) AND MR. GONÇALVES (BRAZIL)

1. Mr. QURESHI (Pakistan) said that, notwithstanding his country's vital interest as a coastal State in marine fisheries, his Government firmly believed in the freedom of the high seas, and did not see how the best interests of mankind could be served by drawing imaginary lines in the ocean. Proclamations of artificial controls over the sea might satisfy man's desire for appropriation, but could not appease the appetite of the ever-increasing millions of mouths which had an equal right to participate in the wealth of the ocean. Fish was by nature both perishable and renewable, and humanity would be deprived of valuable protein if restrictions were imposed before there was a genuine need for them.

2. The normal aim of commercial fishing was to derive the maximum sustainable yield, but that was not synonymous with keeping stocks at their highest level. While it was true that fishing depleted stocks below their natural maximum, it was equally true that it simultaneously diminished competition for food and permitted a vast rate of growth for the remaining stock. A well-fished stock, as distinct from an over-fished one, had a lower proportion of old and slow-growing fish which were a

drain on available food, and the total annual increment in a well-fished stock was far higher than in an unexploited, old and dense fishery stock, preserved merely to perish by the laws of nature. The aim of rational fishing should be to make the optimum use of resources and to obtain the optimum yield from fishing. Before considering conservation measures, it was necessary to make a reasonably accurate estimate of the potential commercial productivity of the areas of the sea concerned, to establish the ratios of production and basic organic formation under given conditions of sunshine and temperature and of nutrients and oxygen supply, and to determine whether the rate of catch per unit of effort in specified fishing grounds was such as to make them a commercial proposition.

3. Marketing conditions also played a prominent part in commercial fishing, and could not be ignored in planning deep-sea fishing operations. The report prepared in November 1951 by a group of European experts in co-operation with the Fisheries Division of the Food & Agriculture Organization of the United Nations (FAO) for the Sub-Committee on Fisheries of the Organization for European Economic Co-operation (OEEC) had stated that there was a grave danger of a fish surplus in Europe for both white fish and herring, the term "surplus" being taken to mean the quantity which could not be sold at prices acceptable to the producer. A further report published under the auspices of OEEC in 1957 had shown that most fishing administrators were seriously concerned with the problem of marketing at remunerative prices. That was another argument against the premature and unrestricted application of conservation measures.

4. His delegation recognized, nevertheless, that, in view of the improvement in fishing techniques and fishing gear, conservation measures of some kind were essential, and it agreed with the definition of conservation set out in article 50. It attached great importance to agreements between States for effective conservation measures, and was opposed to unilateral action. He believed that the articles dealing with the living resources of the sea should explicitly require all States concerned with a given area or resource to negotiate a convention or, failing that, a bilateral or multilateral agreement. The virtues of multilateral agreement on conservation measures were clearly indicated by the extensive mutual benefits which had accrued to the participants in the International Commission for the North-west Atlantic Fisheries, the Permanent Commission under the 1946 Convention for the Regulation of Meshes of Fishing Nets and the Size Limits of Fish and the Baltic Convention of 17 December 1929 and by the success of international co-operation in the conservation of fur seals and Pacific halibut.

5. In the case of the seas adjacent to the Indo-Pakistan sub-continent no man-made laws were required to meet the needs of conservation. The majority of the fishing craft were small, light boats without motor power, which did not venture far afield, but generally remained within the ten-mile belt. Owing to the monsoon, sea fishing came practically to a standstill during the months of June, July and August, when overhead expenses had to be met without any income. The maximum period for fishing was about 150 days per year, and even in the

peak periods fishing was circumscribed by a number of economic limitations. If, however, any conservation measures in that area were desired, his Government would always be prepared to negotiate for agreement on them, but it could not tolerate the adoption by a coastal State of unilateral measures which would deprive the fishermen of other States of the traditional use of the high seas.

6. In that connexion he feared that the provisions of article 51 might be abused to proclaim fishing rights unilaterally and to promulgate conservation measures which, even if described as non-discriminatory, could in fact be directed against the nationals of other States. His delegation therefore believed that it would be necessary to introduce some additional safeguards into the text of the article.

7. Mr. OLAFSSON (Iceland) regarded the draft articles proposed by the International Law Commission as generally acceptable, though his delegation felt that the articles could only be applied outside the area of coastal jurisdiction, that was to say on the high seas themselves.

8. The economic importance of fisheries to his country was immense, greater even than had been indicated in the report prepared by the secretariat of FAO (A/CONF.13/16). In the Summary Extract from Table 1, section 1, giving the product of sea fisheries as a percentage of aggregate domestic product in selected countries, the figure for Iceland was shown simply as over 3 per cent, whereas the exact figure was 14 per cent or, including the value added in processing, 24 per cent. In the Summary Extract from Table 2, sections 2 and 3, indicating sea fishery landings per hundred inhabitants for selected countries, the figure mentioned for Iceland was "100 tons or more", whereas the true figure was over 300 tons. In the Summary Extract from Table 2, section 4, it was stated that external trade in fishery products represented over 20 per cent of the total merchandise trade of Iceland, whereas the exact figure was 97 per cent. Further, fish constituted the basic food, and the fishing industry was the main source of employment for the greater part of his country's population. Most of the other industries in Iceland were either ancillary to the fisheries or dependent on imports of raw materials and machinery which in turn would be paid for out of the fishing industry's export earnings. The economy of the coastal communities in Iceland in particular was so entirely dependent on the fisheries that a failure of the catch for one or more seasons would deprive them almost entirely of their livelihood, since there was no other industry to which they could turn. There could thus be no doubt that Iceland had a vital interest in maintaining and conserving fish stocks.

9. For a long time, however, it had been evident that over-fishing had been taking place in Icelandic waters, particularly in the case of halibut, haddock and plaice. Even before the First World War the effects of over-fishing had been so serious that the Icelandic fisheries had been faced with an unpredictable disaster, unless some drastic measures were adopted. To avoid such an outcome, Iceland had taken part in every international effort aimed at the conservation of the fisheries in Icelandic fishing grounds or other areas where Icelandic vessels took part in fishing. His Government had par-

participated in the unsuccessful efforts to secure protection of the valuable nursery grounds in the Faxabay area on the south-west coast of Iceland; and it had subscribed to the Conventions of 1937 and 1946 concluded under the auspices of the International Commission for the North-West Atlantic Fisheries. It was also displaying a great interest in the preparation of the new convention for the conservation of fisheries in the North-east Atlantic, and sincerely hoped that the present conference would result in the establishment of a new system which would lead to positive results of great benefit to all.

10. On the other hand, such co-operation alone could not solve all problems. His delegation would certainly agree to the establishment of a really effective system for the conservation of the fisheries in the high seas, but within the coastal fishery areas of Iceland it was indispensable for his Government to exercise its own powers of conservation and utilization in order to ensure its people's means of subsistence. The two systems could be complementary to one another.

11. Such a policy had in fact been adopted by his Government when in 1950 and 1952 it had stipulated that Iceland was entitled to regulate the fisheries on the continental shelf. That step had originally met with considerable objections from foreign fishermen operating in Icelandic waters, but experience showed that it had had a very beneficial effect, not only on the catches of certain important species inside the extended fishery limits but also outside, thus benefiting all fishermen operating in those waters.

12. His delegation welcomed the provisions proposed in article 54, paragraph 1, and felt that an incontrovertible case in their favour had been made out in the commentary to the article. His country firmly supported the principle of the freedom of the seas, which was indeed indispensable for a nation living in a sea-locked land far away from other countries, but the principle of the freedom of the seas could also lead to extremes, as actually occurred in the case of the fisheries around Iceland. For 50 years Iceland had been bound by an agreement to allow foreign fishing vessels to operate up to a three-mile limit including all bays more than ten miles wide. The steps taken to bring that situation to an end had been taken in self-defence, to secure freedom from want for the Icelandic people.

13. He must, however, utter a warning that the establishment and enforcement of a system such as that proposed by the Commission would not provide a final solution to Iceland's fishery problems. His Government and people were devoted to the principles of fishery conservation, both on the national and the international levels. However, even when all necessary conservation measures had been taken and when the maximum sustainable yield had thus been secured, a situation might arise — and as far as Iceland was concerned it had indeed arisen — in which the total yield was not sufficient to satisfy the demands of all who wanted to fish in the area. In such a situation, his delegation maintained, the Icelandic people should have priority in satisfying their requirements.

14. The draft articles on conservation would be a welcome supplement to coastal fisheries jurisdiction, but, as far as his country was concerned, they were not accep-

table as a substitute for such jurisdiction, and in the detailed discussion of the articles his delegation would cooperate in evaluating the amendments which undoubtedly would be submitted.

15. Mr. GOHAR (United Arab Republic) said that a solution of any oceanographic problem required careful study of the wide variety of geological, hydro-biological and biological factors involved. Conscious of the need for more information on the subject, his country had established hydro-biological, oceanographic and biological institutes and stations along its Mediterranean and Red Sea coastlines. It firmly believed in international co-operation as a means of contributing to an understanding of fishing problems, warmly welcomed visits by marine scientists from many parts of the world, and was always prepared to participate in joint programmes for the rational exploitation of its resources.

16. The growing population of his country depended largely on the resources of the sea for their protein requirements; and the poverty of the Mediterranean and Red Seas in living resources was offset to some extent by the abundance of marine life in, and the fertility of, the Nile delta. Moreover, the five great lakes connected to the Mediterranean were among the most productive in the world; however, their stocks of fish left them to spawn in the Nile delta, and even the sardine fishery depended almost exclusively on the flow of Nile silt into the Mediterranean. His country, which obviously had a vital interest in the conservation of the living resources along its coasts, had imposed strict regulations on fishing with bottom gear in the Nile delta and carefully regulated and supervised its Mediterranean sponge fisheries. Red Sea prawns and edible crabs were also caught in large quantities in the Nile delta and the Mediterranean lakes. In short, the importance of the Nile to his country's fisheries could not be over-emphasized.

17. Clearly, therefore, strict fishing regulations were necessary and no country other than the coastal State was really in a position to decide what measures were necessary.

18. He pointed out that foreign nationals were encouraged to co-operate with Egyptians in the exploitation of his country's living resources, even in the territorial seas, and negotiations were under way between his Government and Japanese, Portuguese and Spanish companies with a view to drawing up exploitation projects. His country was keenly interested in ensuring a maximum sustainable yield from its waters; for that reason it had always observed a twelve-mile breadth of the territorial sea for fishing purposes and maintained that a coastal State had an exclusive right to the exploitation and conservation of the living resources of its continental shelf and to the adoption of any necessary conservation measures in the superjacent waters.

19. In conclusion, his delegation was in broad agreement with the Commission's draft.

20. Mr. TREJOS FLORES (Costa Rica) said that under the impact of scientific progress and the introduction of new fishing techniques, revolutionary changes had taken place in the law of the sea during the past few decades. Classical principles were no longer adequate to meet the needs of modern conditions and new concepts such as those relating to the continental shelf

and the special interest of the coastal State had been devised. The Commission had taken those new trends and concepts into account in its draft, which provided the Conference with a sound basis for its work.

21. He pointed out, however, that the Commission's recognition in article 54 of the coastal State's special interest was so hedged about with conditions as to be illusory. The preferential interest of the coastal State should be proclaimed in clear terms; it should be referred to not as an interest, but as a right. That would avoid misinterpretations and give explicit recognition to the coastal State's competence to regulate the exploitation of the living resources of the high seas in areas adjacent to its territorial sea. As it stood, the article placed coastal States and non-coastal States on an equal footing as regards conservation measures. That was obvious from a comparison of articles 54 and 56, the only difference between them being that in article 56 the non-coastal State had to prove its special interest whereas that of the coastal State was recognized *ipso facto*. That was a further reason why the two articles should be worded differently, and why in article 54 the words "special interest in the maintenance of" should be amended to read "special right to maintain".

22. He had already pointed out in the Sixth Committee of the General Assembly¹ that there was a contradiction between articles 52 and 54, in that paragraph 2 of article 54 "entitled" the coastal State to do certain things, whereas article 52 failed to mention such a right. To be consistent, article 52 should state that conservation measures could be requested not only by States whose nationals engaged in fishing, but also by the coastal State even though its nationals did not carry on fishing in the area concerned. Furthermore, the coastal State should participate in negotiations embarked upon by those States.

23. His delegation fully accepted the need for the supervision of conservation measures of all kinds and for the introduction of a system for the settlement of disputes arising out of conservation programmes, but the establishment of the arbitral commission proposed in article 57 did not appear to be the most suitable method. That was particularly true in view of the fate at the Tenth Session of the General Assembly of the draft convention on arbitral procedure drawn up by the International Law Commission at its fifth session,² and he felt that States would show even greater opposition to the rigid procedure contemplated in article 57. He therefore agreed with the representative of Ecuador that it would be better to establish a United Nations body under the Economic and Social Council for that purpose. The Mexican proposal (A/CONF.13/C.3/L.1) that any disputes arising out of conservation measures should be settled in accordance with Article 33 of the United Nations Charter was rather vague, however, and did not have sufficient support.

24. Mr. GONÇALVES (Brazil) said that his country's efforts to develop its fishing industry by encouraging private fishing organizations had been successful, and

that the annual per capita fish consumption was increasing. The Brazilian Navy and the Fisheries Division of the Department of Agriculture were engaged in research which would in time provide much valuable information on various marine biological and geographical questions. Brazil had not been alone in its efforts and had received valuable assistance from the FAO, which in 1955 and 1956 had sent fisheries experts to the country, and also from the Japanese Government, which had sent a research ship equipped with scientific instruments and a laboratory. Brazilians and Japanese working together had obtained valuable technical, biological and other data which would be very important in deciding upon conservation measures applicable to the high seas.

25. On the basis of that co-operation, it had been decided that protective or conservation measures should be put into effect without delay to safeguard Brazil's living resources which obtained their food supply in the waters of the continental shelf or coastal ocean currents.

26. He agreed with the United Kingdom representative that article 57 should stipulate that the arbitral commission should consist mainly of experts on the issue under consideration.

The meeting rose at 5.10 p.m.

TWELFTH MEETING

Thursday, 20 March 1958, at 3 p.m.

Chairman: Mr. Carlos SUCRE (Panama)

Consideration of the draft articles adopted by the International Law Commission at its eighth session (articles 49 to 60) (A/3159) (continued)

General debate (continued)

STATEMENTS BY MR. FINN (FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS) AND MR. CASTAÑEDA (MEXICO)

1. Speaking at the invitation of the Chairman, Mr. FINN (Food and Agriculture Organization of the United Nations) said that the Food and Agriculture Organization (FAO) welcomed the opportunity of explaining its role in regard to the conservation of the living resources of the sea, which it was enjoined by its constitution to promote through national and international action as well as by research into improved methods of fishing. The two elements were closely connected, for conservation in its narrow sense of preserving stocks for the use of future generations was often most effectively ensured not simply by limiting the catch, but by the use of selective gear and by fishing at the most appropriate times and places so as to increase current yield. In its wider sense, conservation meant the husbanding of resources so that they would produce the optimum yield.

2. Conservation and management depended upon technical knowledge, choice of method and agreement to abide by the desirable measures; accordingly, conser-

¹ Official Records of the General Assembly, Eleventh Session, Sixth Committee, 498th meeting, para. 5.

² Official Records of the General Assembly, Eighth Session, Supplement No. 9 (A/2456), para. 57.

vation also involved factors other than purely technical and scientific considerations.

3. In regard to the latter, FAO had an important part to play in stimulating scientific research into the biological aspect of fisheries resources and into the effects of different methods of exploitation which had long been the subject of international collaboration. It had sponsored regional fisheries councils and had co-operated closely with similar but independent bodies as well as with national research organizations. On the request of governments it gave direct help in elaborating research programmes, training staff, interpreting results, ensuring their systematic collation and dissemination as well as in the development of uniform terminology to facilitate the exchange of information. FAO had organized or taken part in many international meetings concerned with problems of conservation. In the exercise of all those functions it helped to determine in what cases conservation was necessary and where opportunities existed for intensifying exploitation and raising potential yield: those problems, though complicated, could be solved scientifically.

4. Less progress had been made on the economic side since the first serious attempt to apply well-established methods of economic analysis to the problems of the fishing industry and of rational exploitation had been undertaken barely ten years previously. The organization in 1956 under FAO's auspices of a meeting to study the economics of fisheries had done much to clarify the nature of the problems but little had been done towards assembling the factual information that would enable theoretical findings to be applied in practice. Generally speaking that was the responsibility of governments and industrial organizations, but FAO was endeavouring to help by organizing technical meetings. In addition, it regularly issued a *Yearbook of Fisheries Statistics* and assisted member States in improving their methods of compiling such data.

5. Though non-technical considerations played a greater part in determining what conservation measures were necessary, the efficacy of the latter depended largely on the proper application of biological, technical and economic knowledge. In that respect, FAO could be of considerable assistance, particularly to governments which did not yet possess fully developed research organizations, and, as an impartial international body, it could clarify the biological, technical and economic factors involved in the course of the negotiations between States and in the procedure for the settlement of disputes envisaged by the International Law Commission draft.

6. Though constitutionally it was FAO's duty to bring to the attention of the governments of member States pertinent facts proving the need for agreement on applying the desirable measures, its contribution in that sphere was necessarily restricted to helping in the choice of measures most likely to command general support.

7. The whole concept of the conservation and management of fishery resources was still in a state of evolution, but it was important for the Committee to differentiate between its different aspects. For example, there was already general agreement on the need to prevent the extermination of resources and a wide measure of

agreement on the need to prevent waste through excessive fishing, but some time would elapse before agreement would be reached about the attainment of an optimum economic yield. Clearly, there was little dispute about the elementary consideration that resources should be preserved for future generations. It was significant that in Japan already over 80 per cent of the animal protein consumed came from fish products.

8. Though with present methods it was unlikely that predatory action by man would lead to the total extermination of the majority of species, it was a contingency that was not altogether inconceivable. There was general agreement also that it was necessary to guard against the wasteful use of labour and equipment in the fishing industry and that if unrestrained fishing of a certain stock provided a total yield less than could be achieved by more restricted exploitation, the necessary restraints should be applied. The difficulty was one of measurement for there seemed to be no general consensus of opinion as to which of the criteria or combination of criteria should prevail, but in practice it appeared that at the outset the physical yield in weight would be the most useful, rather than the maximum yield of protein or the highest market value.

9. While the general agreement at the present stage must be mainly concerned with the physical aspects of conservation, which belonged largely to the realm of biology, science and technology, other aspects were already receiving more attention and perhaps would soon be the subject of agreement at least in certain areas. Much would depend on achieving a better understanding of the economic factors, and of course FAO would do everything possible to facilitate the international exchange of information and to encourage research.

10. Similar considerations should apply too to measures for protecting resources from other harmful influences, such as pollution. It was also not inconceivable that something might be done in the future against natural influences that were not beneficial.

11. The measures intended to restore the yield of stocks which might have suffered through the failure to take timely restrictive or protective action and the measures adopted to increase yields beyond their natural level by restocking or fertilizing water must also be clearly based on adequate knowledge of biological, technical and economic possibilities.

12. As the whole concept was in process of development, the Conference would doubtless wish to ensure that the rules it adopted which were likely to dominate the whole treatment of the problem for a long time to come were so framed as to be capable of adjustment as knowledge increased. FAO was obviously anxious that the best use should be made of information concerning means of increasing the world's food supply, and much yet remained to be learned about gathering in the riches of the sea. According to statistics published by FAO in a document concerning the economic importance of the sea fisheries in different countries (A/CONF.13/16), the world catch had risen by about one-third in sixteen years—from 19 million tons in 1940 to 30 million tons in 1956—and during the past five years the yield had increased by about 5 per cent annually. The wise exploitation of those vast resources

presented many problems which by their nature were only amenable to international solution.

13. Mr. CASTAÑEDA (Mexico) said that the question of fisheries and the conservation of living resources was admittedly closely linked with the other matters pertaining to the law of the sea, but its interdependence with the question of the breadth of territorial limits had been seriously exaggerated. The small minority of States which adhered to the three-mile rule and tried to force it on the majority naturally did not desire any final solution of the question of the territorial sea, because they knew that their views could not prevail. They therefore stressed the close relationship between the two questions and suggested that the decision on the breadth of the territorial sea should be postponed until the rules relating to conservation had been established. They argued that the provisions on conservation would enable States to exercise effective protection over the resources near their coast and would thus render a wide territorial sea unnecessary. As the representative of Norway had shown, however, that argument could easily be inverted.

14. Many of the less-developed States, which were mostly also those suffering from a strong demographic pressure, needed the resources of the sea for their survival. Consequently, they could not stand idly by while the wealth of the seas off their coasts was exterminated through the reckless fishing methods of foreign fleets from distant countries. In seeking to remedy that situation, the coastal States could choose between two courses: they could either widen the zone reserved to their nationals or adopt conservation measures on the high seas which would not discriminate against foreign fishermen. Their final choice would depend solely on the vision or short-sightedness displayed at the Conference by the large fishing Powers. If the problems raised by claims to wide areas of exclusive jurisdiction were to be avoided, the coastal States would have to be granted sufficient rights, not merely in theory, but also in practice, to ensure the conservation of the resources they required.

15. To that extent, the two questions were indeed closely related. But no conservation régime, however effective, could ever be a substitute for a territorial sea in the classical sense, even if the latter was twelve miles broad. The reason was simple. The purpose of a territorial sea was not the conservation of marine resources, but the defence of security and other interests. Moreover, the resources in that zone were in any case reserved to the nationals of the territorial State exclusively. The smaller Powers therefore demanded an effective conservation régime over and above, and not in substitution for, recognition of the right of the coastal State to fix its territorial limits at any distance between three and twelve miles from the shore.

16. In that connexion, he stressed that, in saying that many States aspired to a territorial sea of twelve miles, he in no way wished to imply that three miles was the existing rule which some States merely wished to change. The truth of the matter was that the three-mile rule was no longer legally valid and was not accepted by the majority of the members of the international community. Practice had created a new rule of customary law, according to which each State could

adopt any limit between three and twelve miles, without any need to justify its action, and that limit would be binding *erga omnes*.

17. Turning to the question of conservation measures, he said that in the first place such measures could not be effective unless they were based on the ecology of the species to be protected. Consequently, they should take into account the morphological and functional structure of the various biological communities which were fished, or exploited industrially. Secondly, they would only be adequate if they applied to the entire maritime area occupied by the biological community or communities in question, or better still, to the whole "territory" in the ecological sense. Since the limits of such territories did not coincide with artificial limits traced by man, the adoption of different conservation measures on either side of the outer limit of the territorial sea would result in chaos. The whole intricate biological equilibrium which any given biological entity required for its survival and well-being would immediately be upset.

18. Thirdly, the natural resources of the ocean bed included not only the minerals in the subsoil and the living resources reposing upon the bed or mechanically attached thereto, but also the topsoil. The last-named was probably even the most important of those resources, for within it took place important chemical, physio-chemical and, above all, microbiological processes on which the fertility of the waters, and consequently the abundance of fish, directly depended. Hence — and since trawling practices wrought a material and serious change in the physical and biological conditions of the seabed, with inevitable damaging consequences — it was necessary not only to protect living resources, but also to ensure the integrity of the ocean bed or at least to create a system allowing the recuperative forces of nature to play their part.

19. It was well known that the fishing industry was in a very primitive stage of development. The product was removed, but little was done to increase or replenish stocks through proper technical methods. Only very recently had scientists begun to make progress in determining the true location of various species. By contrast, the fishing methods themselves were daily becoming more efficient and powerful. That situation had brought about a serious disequilibrium and a scarcity of resources, and measures to protect the seabed where the fertilizing processes originated would have extremely beneficial effects.

20. The legal problems relating to fisheries were attributable to the concurrence of several factors. As far as fishing was concerned, countries could, with certain exceptions, be divided into two categories. In the first place, there were the countries from the higher latitudes, especially in the north, which generally possessed substantial technical and financial resources and a developed industry. Their cold seas were very rich in fish, because, owing to the abundance of nutritive salts and the frequency of up-welling, the stocks were replenished surprisingly fast. The second category consisted of countries situated between the tropics. They were, for the most part, relatively under-developed. The waters off their coasts were tepid or warm and poor in fishing resources, and the recuperative process

in those seas was infinitely slower. The States in the second group were therefore justifiably disturbed by the gradual, though constantly more noticeable, southward movement of northern fishermen. As soon as any of the more accessible fishing grounds were exhausted or destroyed, or exploitation therein ceased to be profitable, the ships of the great fishing Powers moved to new regions. Fishermen from the northern States were already operating in the Caribbean, along the Pacific coast of the Americas as far as the Galapagos islands, off the western shores of Africa up to the Gulf of Guinea, and in other areas. The resulting damage to the stocks of fish in the tropical seas was obviously enormous.

21. For fishermen from remote countries, the exhaustion of fishing resources near the coasts of other States was of little consequence. They could always alter their routes and move to new zones in which to continue their depredation. But for an insufficiently developed State lacking the resources needed to fish far from its shores, a diminution in the fish population could have disastrous effects. Once the fish population fell to a "critical" level, it could soon become totally extinct. Moreover, the principal victims of over-exploitation were the coastal fishermen who could not range over great distances in search of more productive areas.

22. The crucial problem of the law of the sea thus stemmed from the reaction of the less developed countries situated in the inter-tropical belt against the growth of fishing imperialism. That reaction was inevitable because of the demographic growth and the awakening political conscience of the peoples concerned. Furthermore, as the need for urgent measures of conservation had only recently been understood, those countries could not now accept the argument that the only "legal" solution was for them to abstain from any defensive measure which might violate the sacred principle of the freedom of the seas. A solution could therefore only be found if all the interests involved were duly balanced. That balance could only be attained through a recognition of the rights of the less developed countries. If the great fishing Powers adopted a negative attitude, the problem would only be aggravated. Rigid adherence to the traditional rules of international law could prove disastrous to all concerned, for the traditional rules on the régime of the sea had been created by the great Powers for their own purposes before many major problems had arisen and before the birth of the new States which now formed the majority. The duty of the Conference, therefore, was to arrive at a negotiated settlement. Failure to do so would leave many States with a feeling of frustration and ultimately lead to an avalanche of extreme unilateral claims.

23. His Government believed that, in principle, problems connected with conservation should be resolved through international agreement. The international character of the waters in which measures had to be taken usually made an international solution greatly preferable. At times, however, such a solution was either impossible or difficult. It was therefore necessary to authorize the coastal State to take unilateral action on the high seas in certain cases. The need for such a course was evident. In the first place, there was the

fact of the coastal State's proximity to the resources. Geographical proximity in itself obviously did not entitle it to sovereignty, but the fact that it had some juridical relevance could not be disputed. If geographical continuity was a reason for recognizing the sovereign rights of the coastal State over the continental shelf, *a fortiori* the coastal State's special interest in adjacent fishing areas should be recognized.

24. Secondly, not all cases lent themselves equally to a solution based on the concerted action of many States. In cases such as whaling—because whales were extremely migratory and many countries participated in an exclusively pelagic industry—no other settlement was possible, but the same was not true in cases where a large fishing fleet from a powerful country fished in fixed areas off the coast of a less developed State. States which fished far from their own shores did not have the same interests in conservation as those situated in the immediate vicinity of the fishing ground. That was why the powerful fishing States desired not so much conservation as the passive consent of the coastal State to unrestricted fishing off its coast.

25. Lastly, as the Indian representative had pointed out (5th meeting), conservation measures adopted by the coastal State could be more easily enforced by that State than by others. Enforcement measures taken by outsiders off the shores of the coastal State could give rise to serious political and legal disputes.

26. Turning to the draft articles proposed by the International Law Commission, he said that the pivotal point was the recognition of the special situation and interests of the coastal State. That principle had been confirmed, after much indecision, in article 54. As was to be expected, however, the great fishing Powers had already voiced their opposition to that provision. Even as recently as 1955, at its seventh session, the Commission had proposed that the coastal State should be permitted to take unilateral conservation measures on the high seas only if it could furnish proof of its special interest.¹

27. Notwithstanding the inexplicable statement in paragraph 14 of the commentary to article 49 that the special interests of the coastal State did not take precedence *per se* over the interests of other States, it was now conceded that the coastal State enjoyed a unique and privileged position and that, having a special interest, it could adopt unilateral conservation measures on the high seas adjacent to its territorial sea. That was the most revolutionary of all the principles proposed by the Commission. He could not, however, accept the Commission's subsequent suggestion that the coastal State and other States fishing off its coast were on an equal footing and enjoyed the same juridical status.

28. Article 54, paragraph 2, seemed to permit the coastal State to participate in the negotiation of conservation measures off its coasts purely as an act of grace. Thus, under the pretext of granting the coastal State an illusory right, the Commission had tried to authorize every State to impose measures of conservation in areas adjacent to other countries. In practice,

¹ *Official Records of the General Assembly, Tenth Session, Supplement No. 9 (A/2934), article 29.*

therefore, every State would be free to establish reserved zones on the high seas opposite another country's coast. The provision was thus completely unacceptable to the smaller Powers which wished to defend the resources they required. Article 56, paragraph 1, was open to the same criticism.

29. The fundamental article of the entire draft was article 55, which authorized the coastal State to adopt unilateral measures of conservation. Such a provision was the logical consequence of the recognition of the special interest of the coastal State. It was regrettable, therefore, that the exercise of that right had been made subject to conditions which rendered it virtually nugatory. As it stood, the provision would offer no protection to insufficiently developed coastal States against States with large fishing fleets. In saying that, he was not criticizing the conditions regarding scientific evidence and non-discrimination against foreign fishermen. The inadmissible clauses were those stipulating that the coastal State could only take unilateral action if the negotiations which it had previously entered into with other interested States had led to no agreement "within a reasonable time" and that the legal validity of its action would depend on the result of a complex compulsory arbitration. In order to realize the true scope of those conditions, it had to be realized that fisheries disputes did not arise *in vacuo*. The disputes which the regulations were designed to resolve were normally not between equals but between less developed States, with scanty technical and financial resources, and powerful adversaries. The conditions laid down by the International Law Commission might have some sense in a regional convention, but in a universal instrument they would only mean that the States which really needed effective legal protection of their interests would in practice have to renounce all right to take unilateral action.

30. The "reasonable time" proviso was open to further criticism. It was recognized that the coastal State should not take unilateral measures except in cases of urgency. But where the need was urgent there would be not time to enter into negotiations. In practice, by the expiry of a reasonable period of negotiation between a small country and a great Power there would be very few fish left to protect.

31. With regard to compulsory arbitration, he felt that the Commission's proposal might prove very dangerous. No compulsory procedure could be more effective than means of peaceful settlement voluntarily agreed upon by the parties. A solution voluntarily arrived at as a result of negotiations had the qualities of permanence and cordiality which any arbitral decision lacked. In his opinion, the system proposed by the Commission in articles 57, 58 and 59 was excessively rigid, over-complicated and unlikely to prove workable.

32. He did not of course dispute that the unilateral actions of the coastal State in areas of the high seas over which it did not exercise sovereign rights should be subject to limitations. Arbitrary, uncontrolled or discriminatory action should certainly never be tolerated. He felt, however, that the conditions set forth in article 55, paragraph 2, were in themselves adequate.

33. Another important point was that articles 57 to 59 represented rules of adjective law. A work of codi-

fication which would apply to States and regions of very diverse conditions should confine itself to substantive law. Many existing instruments consisted solely of substantive rules which stated the obligations and rights of States. The absence of detailed procedural rules had never caused anyone to contend that those obligations or rights did not exist or that States lacked the legal means to fulfil the former or exercise the latter. With that in mind, the Mexican delegation had formally proposed that articles 57, 58 and 59 should be replaced by a much simpler and briefer text (A/CONF.13/C.3/L.1), which merely required the parties to a dispute to resort to one of the means of settlement envisaged in Article 33 of the United Nations Charter. If that provision had proved sufficient in questions affecting the maintenance of peace, it should also suffice for the solution of fishery disputes.

34. The CHAIRMAN declared the general debate closed.

35. The CHAIRMAN asked for comments on the organization of the second stage of the Committee's work.

36. Mr. CORREA (Ecuador) proposed that the Committee should deal with the articles referred to in the following groups: (1) definition of conservation (article 50); (2) rights and obligations of the coastal State (articles 51, 52 and 53); (3) special position of the coastal State (articles 54, 55 and 56); (4) arbitration (articles 57, 58 and 59); (5) fisheries conducted by means of equipment embedded in the floor of the sea (article 60); and finally (6) article 49 (the decision on which would depend on the action taken regarding article 66).

37. The CHAIRMAN observed that as modes of settlement of disputes other than arbitration were mentioned in the draft, group 4 should be entitled "Settlement of disputes".

38. Mr. CORREA (Ecuador) agreed.

39. The CHAIRMAN announced that in the absence of further proposals a paper based on that made by the representative of Ecuador would be circulated for discussion at the next meeting.

The meeting rose at 5 p.m.

THIRTEENTH MEETING

Friday, 21 March 1958, at 3.15 p.m.

Chairman: Mr. Carlos SUCRE (Panama)

Organization of the Committee's work (continued)

1. The CHAIRMAN proposed that for the study of the individual articles referred to it the Committee should divide them into three main groups: first, the right to fish (article 49); secondly, problems connected with the conservation of the living resources of the seas (articles 50 to 56 and article 60), which should be subdivided into (a) the definition of the right to fish (ar-

ticle 50), (b) competence of coastal States (articles 54, 55 and 60), (c) competence of States in general (articles 51, 52, 53 and 56); thirdly, the peaceful settlement of disputes (articles 57, 58 and 59).

2. It would be better to postpone taking decisions on the second paragraph of articles 52 and 53 or the third paragraph of articles 54 and 55 until decisions had been reached on articles 57, 58 and 59.

3. He proposed the following final dates for the submission of proposals and amendments: 25 March, for proposals and amendments relating to articles 49 and 50; 28 March, for those relating to articles 51 to 56 and 60; and 8 April, for those relating to articles 57 to 59.

4. He suggested that after discussion of each article, it should be voted provisionally. The results of votes would be sent to a drafting committee composed of the officers of the Committee assisted by the secretariat. The articles would subsequently be submitted for a second and definitive vote.

5. The Committee should endeavour to finish its work one week before the end of the Conference so as to leave time for the preparation of a report for discussion at a plenary meeting. It might accordingly be necessary to hold evening and Saturday meetings.

6. Mr. GARCIA AMADOR (Cuba) had no objection to the Chairman's plan, but asked at what stage proposals claiming exclusive fishing rights on the basis of special economic circumstances were to be discussed.

7. The CHAIRMAN said that claims of exclusive fishing rights came within the first group which he had proposed, the right to fish.

8. Mr. CORREA (Ecuador) thought it would be more logical to study the rights and obligations of States in general before those of coastal States in particular. He therefore proposed that the order of (b) and (c) in the Chairman's second group should be reversed. Discussion of articles 49 should be postponed until the end of the discussions on other articles, for two reasons: first, the contents of that article were closely linked with the First Committee's decisions with regard to proposals concerning the contiguous zone; secondly, the article referred to provisions concerning conservation of the living resources of the high seas, and it would therefore be more logical to reach decisions on those provisions first.

9. The proposed final dates for the submission of proposals and amendments to articles might prove to be too rigid. It would be better not to fix such dates until discussion of the group of articles to which they related had begun.

10. Mr. OZERE (Canada) asked whether there was to be a general final date for submitting amendments to articles, bearing in mind the fact that additional articles might later be approved.

11. The CHAIRMAN said he had discarded the idea of having a general final date for amendments to all the articles, and had proposed instead that there should be separate final dates for each group of amendments.

12. Mr. LUND (Norway), supported by Mr. DINE-

SEN (Denmark) en Mr. MESECK (Federal Republic of Germany), asked whether it would be possible to have the Chairman's proposals on paper before they were discussed further.

13. Mr. WALL (United Kingdom) asked that the proposals of the representative of Ecuador might also be circulated in writing.

14. In reply to a question from Mr. HERRINGTON (United States of America), the CHAIRMAN said that a provisional vote would be taken when the discussion of each group of articles had been concluded and when the final date for the submission of amendments had been reached.

15. Mr. HERRINGTON (United States of America) supported the Ecuadorian representative's proposal to defer consideration of article 49, the decision on which would depend largely on the outcome of the debate on other fisheries articles.

16. He supported the Chairman's proposal concerning final dates for the submission of amendments.

17. Mr. GARCIA AMADOR (Cuba) agreed that consideration of article 49 should be deferred in so far as it related to the claims of coastal States. Such claims should not be examined until the First Committee had reached a decision on the Canadian proposal (A/CONF.13/C.1/L.77) which had a direct bearing on them. To act otherwise would lead to confusion as separate decisions would be taken almost concurrently on two related matters.

18. The CHAIRMAN said that the Ecuadorian representative's and his own proposals would be circulated as documents at the next meeting.

The meeting rose at 3.55 p.m.

FOURTEENTH MEETING

Monday, 24 March 1958, at 3.10 p.m.

Chairman: Mr. Carlos SUCRE (Panama)

Organization of the Committee's work (A/CONF.13/C.3/L.17) (continued)

1. Mr. GARCIA AMADOR (Cuba) said that the order of sub-divisions (b) and (c) in group I of the Note by the Bureau of the Committee (A/CONF.13/C.3/L.17) should be reversed, for articles 51 to 53 and article 56 were less controversial than articles 54, 55 and 60. Besides, the decisions on the proposals concerning the contiguous zone which were being discussed in the First Committee would have a bearing on the Third Committee's work on the articles relating to the competence of the coastal State.

2. Mr. CORREA (Ecuador) said that the most important of the proposals which he had made at the previous meeting had been that article 49 should be discussed after the other articles before the Committee, and that proposal had been embodied in the Note by the Bureau. He now felt it was more logical to discuss the

competence of coastal States before the competence of non-coastal States — although at the previous meeting he had proposed the opposite — since it would enable representatives to obtain a clear idea of the Third Committee's views on the competence of coastal States before the First Committee came to discuss the Contiguous Zone.

3. Mrs. JAMIOLKOWSKA (Poland) said that her delegation agreed with the Bureau's suggestion that claims of exclusive or preferential fishing rights on the basis of special economic circumstances should be considered after the other articles had been discussed, but she did not think that article 49 should also be postponed until the end. Only two amendments had been proposed to that article, and it was therefore likely to prove acceptable in substance, subject only to drafting changes. She therefore proposed that article 49 should be discussed at the beginning of the list of articles before the Committee.

4. Mr. QURESHI (Pakistan) said that some clarification of the Bureau's proposed sub-division (c) of group I was needed, since article 56 related exclusively to non-coastal States, while articles 51 to 53 seemed to be of general application.

5. Mr. POPOVIC (Yugoslavia) said that article 49 should be discussed first, since, if the Committee failed to agree on that article, it would find it difficult to reach agreement on the other articles. He proposed that articles 49 to 60 should be divided into the following groups: (1) article 49; (2) articles 50 to 53, and perhaps 56; (3) proposals concerning claims of exclusive or preferential fishing rights of coastal States, together with articles 54, 55 and perhaps 60; (4) the last sentences of article 53, paragraph 2, and article 55, paragraph 3, together with article 58. He also proposed that 1 April should be fixed as the final date for the submission of proposals or amendments to article 49 and for the submission of proposals concerning claims to exclusive or preferential fishing rights.

6. Mr. KRYLOV (Union of Soviet Socialist Republics) said that article 49 should be discussed first. A decision on paragraph 2 of articles 52 and 53 and paragraphs 3 of articles 54 and 55, which the Bureau proposed should be postponed until a decision had been reached on articles 57 to 59, could be left until the end of the discussions since they related to formal and not to substantive questions. He agreed that proposals concerning claims to exclusive or preferential fishing rights on the basis of special economic circumstances should be discussed last.

7. Mr. OLAFSSON (Iceland) said that the question of exclusive fishing rights was of especial concern to Iceland. In discussing proposals relating to claims to such rights, the Committee would inevitably refer to article 49, and he therefore supported the Bureau's suggested treatment of that article.

8. Mr. LUND (Norway) said, with regard to sub-divisions (b) and (c) of group 1 of the Note by the Bureau, that the Committee should follow the order of the articles as set out in the International Law Commission's draft. Articles 51 to 53 concerned all States

and were of a general character. Articles 54 and 55, on the other hand, concerned the special position of coastal States, and it was therefore more logical to consider those articles after articles 51 to 63.

9. Article 60 dealt with a special problem, and should be discussed after the articles dealing with the conservation of the living resources of the high seas. His delegation could not accept the Bureau's suggestion that a decision on paragraphs 2 of articles 52 and 53 and paragraphs 3 of articles 54 and 55 should not be taken before a decision had been reached on articles 57 to 59. It implied that decisions could be taken on the other paragraphs of articles 52 to 55, whereas the question of compulsory arbitration was inseparable from any article in which it was mentioned. On the other hand, the articles which dealt with the machinery of arbitration could be considered as a separate group.

10. Mr. WALL (United Kingdom) said that, although he thought that the Committee should not depart from the order of the International Law Commission's draft articles, it would be difficult to come to a final decision on article 49 before the end of the discussions. With regard to the Bureau's sub-divisions (b) and (c) of group I, he felt that the International Law Commission's order to articles should be followed, since, as the representative of Cuba had said, articles 51 to 53 were less controversial than articles 54 and 55. It would thus be possible to dispose of articles 50 to 53 rapidly.

11. Mr. RUIVO (Portugal) supported the United Kingdom representative's views. He thought that the order of the International Law Commission's draft articles was the best one. The articles dealing with arbitration, being of a more general nature, might be discussed before those relating to the competence of non-coastal States.

12. Mr. GOLEMANOV (Bulgaria) considered that the International Law Commission's draft was based on a logical plan, which was reflected in the order of the articles. He therefore believed that the discussions should begin with article 49, and he supported the Soviet representative's views relating to the organization of the discussions on the other articles before the Third Committee.

13. Mr. OZERE (Canada) thought that it would be difficult to discuss article 49 first, since it was a general article on a general topic, and a discussion on such a topic might merely lead to a repetition of the general debate. Moreover, article 49 gave States the right to fish "subject to... the provisions contained in the following articles", and it would therefore be difficult to reach an agreement on article 49 until the "following articles" had been agreed on.

14. With regard to the suggestion in paragraph 2 of the Note by the Bureau, he proposed that the vote on the first reading should not take place for two days after the tentative final date fixed for the submission of amendments.

15. Mr. HERRINGTON (United States of America) said that it would be more logical to discuss article 49 last. The acceptability of articles 53 to 55 would de-

pend on the nature of the arbitral procedure agreed on, and thus it would not be possible to come to a decision on those articles until agreement had been reached on the arbitral procedure itself.

16. He supported the Canadian representative's proposal relating to the vote on the first reading. He thought that the purpose of the votes should be clarified, in such a way as to make it clear that the first reading was to be concerned with the substance of the articles, and was subject to drafting changes. The second reading would then be for the approval of the final draft.

A proposal by Cuba that the competence of non-coastal States be discussed before the competence of coastal States was adopted by 41 votes to 5, with 13 abstentions.

A proposal by Poland that article 49 be discussed first was rejected by 34 votes to 14, with 9 abstentions.

A proposal by Yugoslavia that proposals concerning claims to exclusive or preferential fishing rights on the basis of special economic circumstances should be discussed in conjunction with articles 54, 55 and 60 after the discussion of articles 49, 50 to 53 and 56 was rejected by 32 votes to none, with 22 abstentions.

A proposal by Yugoslavia that the Committee should discuss article 58 together with the last sentence of article 53, paragraph 2, and the last sentence of article 55, paragraph 3, was rejected by 15 votes to none, with 23 abstentions.

A proposal by Yugoslavia that 1 April should be the final date for the submission of amendments to article 49 and the submission of proposals relating to claims to exclusive or preferential fishing rights on the basis of special economic circumstances was rejected by 30 votes to 6, with 12 abstentions.

A proposal by Norway that the Committee should discuss article 60 as a separate group IV was adopted by 40 votes to 1, with 14 abstentions.

17. Mr. TREJOS (Costa Rica) proposed that, in view of the decision to constitute article 60 as a new group IV, the final date for the submission of proposals and amendments relating to that article should be 8 April.

The proposal was adopted by 30 votes to 8, with 12 abstentions.

The Canadian proposal that the first vote should be taken two days after the tentative final date for the submission of proposals was adopted by 39 votes to none, with 16 abstentions.

18. Mr. ALVAREZ (Uruguay) suggested that a comparative chart of amendments to each article should be drawn up for the assistance of delegates.

19. The CHAIRMAN said that the Secretary would keep that suggestion in mind.

The note concerning organization of work (A/CONF.13/C.3/L.17), as amended, was adopted.

The meeting rose at 4.55 p.m.

FIFTEENTH MEETING

Tuesday, 25 March 1958, at 10.45 a.m.

Chairman: Mr. Carlos SUCRE (Panama)

Organization of the Committee's work (A/CONF.13/C.3/L.18) (continued)

1. Mr. OZERE (Canada) pointed out that in accordance with the decision which the Committee had reached at its previous meeting, article 50 and any proposals and amendments thereto, in respect of which the closing date mentioned in paragraph 3 of document A/CONF.13/C.3/L.18 had now been reached, would be voted upon on first reading on 27 March.

2. Mr. LLOSA (Peru) agreed that that procedure should be followed. He suggested, however, that any proposals or amendments relating to article 50 submitted after the meeting but before 6 p.m. should be discussed at a subsequent meeting.

It was so agreed.

3. Mr. WALL (United Kingdom) felt that the Committee's decision to divide articles 51 to 56 into two groups for purposes of discussion (document A/CONF.13/C.3/L.18, paragraph 1, I (b) and (c)) had not been taken sufficiently into account in fixing the final dates for the submission of proposals and amendments to those articles. The Committee's work would be retarded if the same final date were maintained for both groups and he therefore proposed that the final date for the submission of proposals and amendments to articles 51 to 53 and article 56 should be advanced to 26 March.

4. Mr. ALVAREZ (Uruguay) supported the United Kingdom proposal.

5. Mr. MELO LECAROS (Chile) expressed the hope that the new final date proposed by the United Kingdom representative would be sufficiently flexible and that allowances would be made for the difficulties it might raise for the smaller delegations.

6. The CHAIRMAN assured the Chilean representative that any such difficulties would be taken into account.

The United Kingdom proposal that 26 March be the final date for the submission of proposals and amendments to articles 51 to 53 and article 56 was adopted.

Consideration of the draft articles adopted by the International Law Commission at its eighth session (A/3159)

ARTICLE 50 (DEFINITION OF CONSERVATION OF THE
LIVING RESOURCES OF THE SEA (A/CONF.13/C.3/L.8))

7. Mr. HULT (Sweden), explaining his delegation's proposal (A/CONF.13/C.3/L.8), said that the purpose of conservation measures was to protect fish stock not for its own sake, but in a form most beneficial to mankind. The valuable proteins of fish meat, with their essential amino-acids, were indispensable in a world of protein shortage. Should any conflict arise between the

conservation of fisheries for human consumption and their conservation for other purposes, it was vital that priority should be given to fisheries maintained for human consumption.

Mr. LLOSA (Peru) recalled that the International Technical Conference on the Conservation of the Living Resources of the Sea held in Rome in 1955 had decided, as a result of a compromise proposal submitted by his own country in co-operation with Mexico and Cuba, to include in paragraph 18 of its report,¹ under the heading "Objectives of Fishery Conservation", a statement that "when formulating conservation programmes, account should be taken of the special interests of the coastal State in maintaining the productivity of the resources of the high seas near to its coast". The present wording of article 50 followed closely the text of the first sentence of paragraph 18, but contained no reference to the special interests of the coastal State. His delegation took the view that it was for the present conference to make good that omission, and he would be glad to submit a written amendment to bring the provisions of article 50 into line with the recommendations of the Rome Conference, if other members of the Committee so desired.

9. Mr. SATO (Japan) observed that there were two paragraphs in the Rome Conference's report devoted to a definition of the objectives of fishery conservation: first, paragraph 17, which stated that the immediate aim of conservation of living marine resources was to conduct fishing activities so as to increase, or at least to maintain, the average sustainable yield of products in a desirable form and that at the same time, wherever possible, scientifically sound positive measures should be taken to improve the resources; and, secondly, paragraph 18, which stated that the principal objective of conservation of the living resources of the seas was to obtain the optimum sustainable yield so as to secure a maximum supply of food and other marine products and that, when formulating conservation programmes, account should be taken of the special interests of the coastal State in maintaining the productivity of the resources of the high seas near to its coast.

10. The provisions of article 50, as drafted by the International Law Commission, were closely similar to those proposed in the first part of paragraph 18, but there was no reference at all to the recommendations contained in paragraph 17. In his delegation's view, those two paragraphs of the Rome Conference's report were complementary, and neither could stand without the other. It was therefore essential to take into account the terms of paragraph 17 of the report of the Rome Conference of 1955 in determining the meaning of article 50.

11. With that reservation, his delegation was prepared to approve the text of article 50.

12. Mr. SERBETIS (Greece) supported the Swedish proposal which amplified, but did not essentially change the purport of, article 50.

13. Mr. CASTAÑEDA (Mexico) said that his delegation approved in substance the present wording of article 50. In any definition of the objectives of fishery

conservation, however, account should be taken not only of economic and utilitarian considerations, but also factors affecting the social welfare of the population of a coastal State. If, for instance, the fishing methods employed by the population of a coastal State were very old-fashioned, they would certainly not contribute to the achievement of the optimum sustainable yield: but they were justifiable on social grounds, because they represented the only source of livelihood for the local population. In his view, the social aspect of fishery conservation was recognized, at least by implication, in paragraph 1 of article 54. But, as it would be preferable to include some explicit reference to the matter in article 50, his delegation supported the Swedish proposal, which would establish a social, as well as an economic, criterion in the application of fishery conservation measures.

14. The CHAIRMAN declared that further consideration of article 50 was deferred to a later meeting.

ARTICLES 51 TO 53 AND ARTICLE 56 (COMPETENCE OF NON-COASTAL STATES) (A/CONF.13/C.3/L.3, L.4, L.7, L.9 to L.11)

15. U KHIN (Burma), introducing his delegation's proposal concerning article 51 (A/CONF.13/C.3/L.7), recalled that, since articles 51 and 68 were closely related, he had suggested that the Third and Fourth Committees should hold joint meetings to consider them simultaneously. If that could not be arranged, however, steps must be taken to ensure that the rights specified in article 68 were not affected in any way by the provisions of article 51; that was precisely the purpose of his delegation's proposal.

16. Mr. POPOVIC (Yugoslavia) said that the first paragraphs of each of his delegation's two proposals relating to articles 51 and 52 (A/CONF.13/C.3/L.9 and A/CONF.13/C.3/L.10) were based on the same consideration — namely, that in view of the principle of the freedom of the high seas proclaimed in the Commission's draft articles, a State should be entitled to adopt measures necessary to regulate and control fishing in any area of the high seas only with respect to its own nationals. That view was confirmed in paragraph 1 of the Commission's commentary on article 51.

17. The new paragraph which his delegation was proposing to add to articles 51 and 52 was necessary because, just as in the case of the measures by the coastal State referred to in article 55, paragraph 2, sub-paragraph (b), any measures adopted by other States should be based on appropriate scientific findings.

18. Mr. KRYLOV (Union of Soviet Socialist Republics) said that his delegation intended to submit an amendment to article 53.

19. Mr. RAVEL (France) explained that the purpose of the amendments to articles 52 and 53 contained in his delegation's proposal (A/CONF.13/C.3/L.3) was simply to specify the time within which the agreements referred to should be reached.

20. The CHAIRMAN declared the debate on articles 51 to 53 and article 56 closed.

The meeting rose at 12.5 p.m.

¹ United Nations publication, Sales No.: 1955.II.B.2.