

Second United Nations Conference on the Law of the Sea

Geneva, Switzerland
17 March – 26 April 1960

Document:-
A/CONF.19/C.1/L.3

United States of America: proposal

Extract from the *Official Records of the Second United Nations Conference on the Law of the Sea (Summary Records of Plenary Meetings and of Meetings of the Committee of the Whole, Annexes and Final Act)*

thereof, to exercise the same sovereignty or the rights stated in article 2 above up to a limit equal to the limits fixed by that other State.

Article 4

Every State shall enact the necessary laws and regulations to prevent its nationals from fishing within the territorial seas and fishing zones of other States unless authorized to do so by the competent authorities of the coastal States concerned.

Article 5

Nothing in the provisions of this convention shall be construed so as to preclude the conclusion, subject to the established rules of international law, of bilateral or multi-lateral agreements of a regional character to regulate all matters of fishing amongst States with common interests.

Article 6

The foregoing provisions shall not affect in any manner the juridical status of historic waters.

DOCUMENT A/CONF.19/C.1/L.3

United States of America: proposal

[Original text: English]

[23 March 1960]

Article 1

The maximum breadth of the territorial sea of any state shall be six miles. For the purpose of the present Convention the term mile means a sea mile (1,852 metres) reckoned at sixty to one degree of latitude.

Article 2

The coastal state shall have exclusive fishing rights in a zone (hereinafter referred to as "the outer zone") extending from the outer limit of its territorial sea to maximum distance of twelve miles measured from the baseline from which the breadth of its territorial sea is measured, subject however to the provisions of the present Convention.

Article 3

Any state whose vessels have made a practice of fishing in the outer zone of another state during the period of five years immediately preceding 1 January 1958 (hereinafter referred to as "the base period") may continue to fish within the outer six miles of that zone for the same groups of species as were taken therein during the base period to an extent not exceeding in any year the annual average level of fishing carried on in the outer zone during the said period.

Article 4

Any state whose vessels are entitled, under the provisions of the present Convention, to fish in the outer zone of another state shall take such measures as are necessary to ensure that its vessels comply with the said provisions. Such measures shall be notified to the coastal state.

Article 5

The provisions of the annex to the present Convention shall apply to negotiations between the coastal state and the fishing state in regard to the application of the present Convention, and to the settlement of any dispute between such states arising out of the interpretation or application of the present Convention.

Annex

I. If the coastal State disputes that the vessels of the fishing State have made a practice of fishing in the outer six-mile zone during the base period, the former State may initiate the procedure provided for in section IV of this annex. Pending a decision under that procedure, vessels of the fishing State may continue to fish within the outer zone to the same extent as heretofore.

II. (1) Negotiations shall be entered into between the coastal State and the fishing State, if at any time either State so requests, for the purpose of agreeing upon the groups of species taken and upon the annual average level of fishing carried on by the vessels of the fishing State during the base period.

(2) If the negotiations referred to in paragraph (1) above do not result in agreement within twelve months from the time of any such request, either State may initiate the procedure provided for in section IV of this annex.

(3) The coastal State and the fishing State may enter into such arrangements as may be appropriate in particular cases for applying the provisions of article 3 of the Convention of, 1960.

III. (1) If the coastal State at any time so requests, negotiations shall be entered into between the coastal State and the fishing State for the purpose of reaching agreement upon any measures additional to those provided in article 4 of the Convention of, 1960, which may be necessary to ensure compliance with the provisions of that Convention.

(2) If the negotiations provided for in paragraph (1) above do not result in agreement within twelve months from the time of any such request, the coastal State may initiate the procedure provided for in section IV of this annex.

IV. (1) In the circumstances envisaged in sections I, II and III of this annex, the dispute shall be submitted for settlement to a commission of five members, unless the two states agree to seek a solution by another method of peaceful settlement.

(2) The members of the commission, one of whom shall be designated as chairman, shall be named by agreement between the States in dispute within three months of the request for settlement. Failing agreement they shall, upon the request of either State, be named by the Secretary-General of the United Nations, within a further three-month period, in consultation with the States in dispute and with the President of the International Court of Justice and, if the Secretary-General of the United Nations deems it appropriate, the Director-General of the Food and Agriculture Organization of the United Nations, from amongst well-qualified persons being nationals of States not involved in the dispute and 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 original appointment shall be filled in the same manner as provided for in the initial selection.

(3) Either state shall have the right to name one of its nationals to the commission, with the right to participate fully in the proceedings on the same footing as a member of the commission but without the right to vote or to take part in the writing of the commission's decision.

(4) The commission shall determine its own procedure, assuring each party to the proceedings a full opportunity to be heard and to present its case. It shall also determine how the costs and expenses shall be divided between the States in the dispute, failing agreement by those States on this matter.

(5) The commission shall render its decision within a period of

five months from the time it is appointed, unless it decides, in case of necessity, to extend the time limit for a period not exceeding three months.

(6) The commission shall, in reaching its decision, adhere to

any special agreements between the States in dispute regarding settlement of the dispute.

(7) Decisions of the commission shall be by majority vote, and shall be binding on the States in dispute.

DOCUMENT A/CONF.19/C.1/L.4

Canada: proposal

[Original text: English]

[24 March 1960]

1. A State is entitled to fix the breadth of its territorial sea up to a maximum of six nautical miles measured from the applicable baseline.

2. A State is entitled to establish a fishing zone contiguous to its territorial sea extending to a maximum limit of twelve nautical miles from the baseline from which the breadth of its territorial sea is measured, in which it shall have the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea.

DOCUMENT A/CONF.19/C.1/L.5

Philippines: amendments to documents A/CONF.19/C.1/L.1 to L.4

[Original text: English]

[1 April 1960]

To each of the proposals contained in documents A/CONF.19/C.1/L.1 to L.4 add the following as a last paragraph or article:

"The foregoing provisions shall not apply to historic waters."

COMMENTARY

1. This additional provision, to be appended to any rule which may be adopted on the breadth of the territorial sea, will merely state in positive terms what is already recognized and implied in the resolution on the régime of historic waters, adopted by 77 votes to none, with 3 abstentions, at the 20th plenary meeting, 27 April 1958, of the first United Nations Conference on the Law of the Sea.⁸

⁸ *Official Records of the United Nations Conference on the Law of the Sea*, vol. II, annexes, document A/CONF.13/L.56, resolution VII.

2. Pursuant to this resolution, the United Nations General Assembly has referred the study of the juridical régime of historic waters to the International Law Commission.⁹

3. The clear implication from the resolution is that historic waters, including bays, are recognized and have been set apart as having a special juridical status, and cannot be covered by any general rule which may be adopted as to the breadth of the territorial sea. In the case of bays, article 7, paragraph 6, of the Convention on the Territorial Sea and the Contiguous Zone, stipulates that: "The foregoing provisions shall not apply to so-called 'historic bays' . . ."

4. In order to complete the positive expression of the assumption and intent embodied in the above-quoted resolution, an identical provision on historic waters in general is called for. Hence, the proposed amendment.

⁹ *Official Records of the General Assembly, Fourteenth Session, Supplement No. 16*, resolution 1453 (XIV).

DOCUMENT A/CONF.19/C.1/L.6

Ethiopia, Ghana, Guinea, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Morocco, Philippines, Saudi Arabia, Sudan, Tunisia, United Arab Republic and Yemen: proposal

[Original text: English]

[6 April 1960]

Article 1

A State has the right to fix the breadth of its territorial sea up to a maximum of twelve miles measured from the applicable baseline.

Article 2

A State, if the breadth of its territorial sea is less than twelve miles, has the right to establish a fishing zone con-

tiguous to its territorial sea extending to a maximum of twelve miles measured from the applicable baseline.

Article 3

A State has in this fishing zone the same rights of fishing and of exploitation of the living resources of the sea as it has in its territorial sea.