Second United Nations Conference on the Law of the Sea

Geneva, Switzerland
17 March – 26 April 1960

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Thirteenth Meeting of the Committee of the Whole

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)*

16. The delegation of Pakistan believed that leaving the delimitation of the territorial sea flexible between three and twelve miles would hardly contribute to international uniformity; the only uniformity which could result from such a decision would be the gradual extension of the territorial sea to a limit of twelve miles, with all its adverse effects on navigation.

17. The first part of the Mexican proposal (A/CONF. 19/C.1/L.2) was similar to that of the USSR and the foregoing arguments applied to it equally. The second part was an ingenious scheme providing for a larger fishing zone in compensation for a correspondingly smaller territorial sea. It suggested that if the breadth of the territorial sea were from three to six miles, the fishing zone might be extended up to eighteen miles. The proposal, cleverly designed to persuade States to content themselves with the minimum territorial sea in exchange for extended fishing rights, had the disadvantage that it would contribute not to uniformity but to the lack of it.

18. The United States proposal (A/CONF.19/C.1/L.3) had the merit that it sought a compromise between the aims of the States which asked for a twelve-mile territorial sea and those which would prefer a three-mile territorial sea, between the aspirations of large maritime fishing States and new States in the process of developing their fishing resources.

19. The Canadian proposal (A/CONF.19/C.1/L.4) recognized the paramount interest of the coastal State in the living resources of its adjacent fishing zone, while the consideration behind the United States proposal was that those maritime States which had built up large fishing fleets should have qualified historic fishing rights reserved for them. It appeared that Canada's main objection to the United States proposal was that it sought to protect, with some limitations, the historic rights of fishing States in perpetuity. That objection had, indeed, much force, but before existing rights were extinguished by legislation a period of time was normally allowed for the affected party to make necessary adjustments. A compromise might perhaps be reached between the United States and Canadian proposals if the historic rights which the United States proposal sought to safeguard could be limited over a period of time ranging from five to ten years. Within that period of time, the large maritime fishing States could devote their attention to locating new fishing grounds on the high seas and gradually moving out of existing fishing grounds situated within the outer six-mile fishing belt. Such a proposal would, in the view of his delegation, be reasonable and fair, because many fishing States had, by means of large fishing fleets and comprehensive surveys, discovered fishing grounds which were open also to the coastal States. If the fishing States had not surveyed the waters of coastal States, some coastal States with meagre and undeveloped resources would perhaps never have discovered those rich fishing zones for years to come. In consideration of the expenditure incurred and the efforts made by the fishing States, therefore, the coastal States might gracefully permit the fishing States which claimed historic rights a reasonable time in which to quit the outer six-mile zone. The delegation of Pakistan had no strong views as to whether such historic rights should be safeguarded by law or by bilateral or multilateral agreements.

20. The annex to the United States proposal provided for machinery for arbitration, and the effective arbitral procedure already accepted in the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas might, *mutatis mutandis*, be made applicable in the context of the United States proposal.

21. The delegation of Pakistan retained an open mind on the whole question, and was most anxious that a fair agreement should be achieved in order to put an end, once and for all, to the existing uncertainty and lack of uniformity. It believed that the proposal most likely to secure general acceptance was a six-mile territorial sea with a further six-mile fishing zone, and it would support that proposal.

The meeting rose at 11.55 a.m.

THIRTEENTH MEETING

Monday, 4 April 1960, at 10.50 a.m.

Chairman: Mr. José A. CORREA (Ecuador)

Tributes to the memory of H.M. Tuanku Sir Abdul Rahman, Yang Di-Pertuan Agong, of the Federation of Malaya, and to the memory of H.M. Norodom Suramarit, King of Cambodia

On the proposal of the Chairman, the members of the Committee observed a minute of silence in tribute to the memory of the King of the Federation of Malaya and the King of Cambodia.

1. Sir Gerald FITZMAURICE (United Kingdom) wished to tender to the delegation of Malaya the sincere and heartfelt sympathies of the United Kingdom delegation in the loss of so distinguished and venerable a leader. The late King of the Federation of Malaya had taken a prominent part in the negotiations which had led up to Malayan independence, and in the drafting of the Malayan Constitution, under which he had become the first Head of the new State. His dedicated endeavours had earned the respect of the world at large, and his death would be grievously felt in his own country, where his name would be long remembered. As a member of the Commonwealth, the United Kingdom would be one with the Malayan people in their sorrow. The leader of the United Kingdom delegation, who was temporarily absent from Geneva, would wish to be personally associated with that expression of sympathy.

2. Mr. GROS (France) emphasized that the ties linking Cambodia and France were of very long standing; the French people and Government could not therefore be unmoved by the grievous blow that had befallen the Cambodian people. In a reign of only five years, the late King of Cambodia, who had felt the deepest concern for social integration, unity and religious development in his country, had sought to unite the different sections of the population around the throne — an endeavour which he had brought to a most successful conclusion.

Mr. Gros also recalled the part played by the Cambodian delegation to the Conference which was held at Geneva in 1954 with the object of restoring peace over a large area of Asia. It was his sad duty to convey to the Cambodian delegation the sincere sympathy of the French Government and people.

3. Mr. SUFFIAN BIN HASHIM (Federation of Malaya) said that the members of his delegation had been deeply touched by the sympathy expressed by the Committee and the United Kingdom delegation. The late King had become the first Head of State of the Federation of Malaya in accordance with the decision taken in 1957 to set up a constitutional monarchy. His experience, understanding and adaptability had fitted him admirably for his position as constitutional monarch and focal point for the loyalty and patriotism of all the peoples of Malaya. Mr. Suffian bin Hashim considered it a great privilege to be allowed to convey to the Malayan Government and people the expressions of sympathy voiced in the Committee on the occasion of the death of their first King.

4. Mr. JUDETH (Cambodia) thanked the Committee and the French delegation for the expressions of sympathy addressed to the Cambodian delegation, which had been deeply touched by them. In particular, it keenly appreciated the reference to His Late Majesty's endeavours in the social and religious spheres. He would not fail to transmit those expressions of sympathy to the Royal Family and to the Government of Cambodia.

Consideration of the questions of the breadth of the territorial sea and fishery limits in accordance with resolution 1307 (XIII) adopted by the General Assembly on 10 December 1958 *(continued)*

GENERAL DEBATE *(continued)*

Statements by Mr. Barnes (Liberia), Mr. Velásquez (Uruguay), Mr. de Pablo Pardo (Argentina) and Mr. Asafu-Adjaye (Ghana)

5. Mr. BARNES (Liberia) said that his delegation was attending the present Conference in the hope of securing a just agreement on the two vital issues under consideration, thereby enabling all States to enjoy in fair measure what was their common property. The hesitation and reluctance of States to ratify the four admirable Conventions adopted by the first United Nations Conference on the Law of the Sea could, in his view, be ascribed to the present uncertainty about the breadth of the territorial sea and fishery limits, and reflected the urgent need for a solution if certain of the results achieved by that Conference were not to be nullified. An essential requisite for such agreement was a spirit of conciliation, and, whatever their other merits, the Soviet Union, Mexican, United States and Canadian proposals (E/CONF.19/C.1/L.1-L.4) before the present Conference were illuminated by that spirit. Nevertheless, in delimiting the territorial sea it was imperative to uphold the salient principle that the sea was a common highway and in the common interest must be preserved as such. The delimitation of sea areas inevitably had international implications, and could not therefore be left simply to the aims of the coastal State as expressed in its municipal legislation.

6. The two proposals — those submitted by the Soviet Union and by Mexico — which sought to extend the territorial sea up to a maximum breadth of twelve miles offered an apparent advantage from the point of view of security, but that advantage could be translated into practical terms only in so far as the coastal State was capable of exercising effective control and enforcing security measures over that breadth. The coastal State would therefore have to incur additional expenditure if international incidents and misunderstandings were to be avoided. His delegation was accordingly not inclined to support any proposal fixing the maximum breadth of the territorial sea at twelve miles.

7. It had been argued that the two proposals in question would leave States free to fix the limits of their territorial sea at any distance between three and twelve miles. But that situation already existed; yet the International Law Commission had still been obliged to recognize that international practice was not uniform as regards the delimitation of the territorial sea. Having been itself unable to reach a decision in the matter, the Commission had expressed the view that the breadth of the territorial sea should be fixed by an international conference, and it was the duty of the present Conference to discharge that responsibility.

8. Although it adhered to the three-mile rule, Liberia would be prepared, for the sake of agreement, to accept an extension of the territorial sea to a maximum breadth of six miles, and would accordingly support a proposal to that effect, especially as it seemed likely to command the requisite majority. In his delegation's view, such a proposal paid due regard to the freedom of international navigation and aviation while at the same time fully meeting the needs of national security and maritime safety.

9. With regard to the question of fishery limits, careful study of the proposals before the Conference had persuaded his delegation that the Canadian proposal (A/CONF.19/C.1/L.4) satisfied one of the principal motives underlying the demand for an extension of the territorial sea — namely, the desire of the coastal State to reserve to its own nationals the exclusive right of fishing in its territorial sea. He recalled that the question of exclusive fishing rights in the contiguous zone had been raised at the first Conference as a possible compromise, in deference to those coastal States which had urged an extension of the territorial sea to twelve miles on economic grounds. Hence, provided that the coastal State was allowed the same exclusive fishing rights in the contiguous zone as it enjoyed in its territorial sea, it should be possible to reach agreement on a reasonably narrow territorial sea. But although, for those reasons, it favoured the Canadian proposal, the Liberian delegation was ready to give serious and sympathetic consideration to a formula which would provide for a reasonable period of adjustment between the coastal States and distant-water fishing States concerned. Some measure of agreement between those States, or at least a majority of them, was, however, essential before such a formula could be considered with any hope of success.

10. The fact that a second United Nations Conference on the Law of the Sea had been convened to consider further the questions of the breadth of the territorial sea and fishery limits, despite the experiences and results of the Codification Conference held at The Hague in 1930 and the first United Nations Conference on the Law of the Sea in 1958, showed that States were determined not only to reach agreement on those two important international issues, but also to improve international relations and thereby maintain world order and peace. His delegation would therefore spare no effort or sacrifice to secure agreement on a matter which had been at issue for the past thirty years.

11. Mr. VELAZQUEZ (Uruguay) said that the concept of an adjacent sea subject to the sovereignty of the coastal State antedated by some five centuries that of the freedom of the seas, which, although proclaimed for the first time in the sixteenth century by the Spanish jurist Vitoria, had not become an accepted rule of international law until the late seventeenth century. The concept of the high seas thus had appeared in history as a limitation of the jurisdiction which States had previously exercised to protect their legitimate interests in the sea areas adjacent to their coasts, a jurisdiction consistent with the principle of effectiveness — a principle fundamental to international law. Coastal States were undoubtedly in a position to exercise sovereign rights over their territorial sea.

12. Until its obsolescence had become apparent at the Codification Conference at The Hague in 1930, the old three-mile rule had had the merit of providing a uniform formula and hence an element of security and order. It had, in fact, survived for some time as the definition of the minimum breadth of the territorial sea. But the discussions and voting at the first United Nations Conference on the Law of the Sea, and the statements and proposals at the present Conference, left no doubt that the majority of States now considered that the minimum breadth of the territorial sea could not be less than six miles.

13. All States were entitled to seek, by every means authorized by international law, to enlarge their territorial jurisdiction by extending the territorial sea and thus helping to improve their peoples' economic conditions. That legitimate end was perfectly consistent with the interests of the international community. For those reasons, his delegation believed that every State should be the sole judge of its needs in respect of the breadth of its territorial sea, up to a distance of twelve miles, and he recalled that his country had been one of the sponsors of the decision on the territorial sea adopted at the Third Meeting of the Inter-American Council of Jurists at Mexico City in 1956, which read as follows:

> " Each State is competent to establish its territorial waters within reasonable limits, taking into account geographical, geological and biological factors, as well as the economic needs of its population, and its security and defence." [1]

14. The crux of the problem was to determine, in the absence of any rule of international law on the subject, what were " reasonable limits ". In the first place, he felt there would be general acceptance of the principle that international law did not permit an extension of the territorial sea beyond twelve miles, as found by the International Law Commission, a principle that was borne out by the terms of article 24, paragraph 2, of the 1958 Convention on the Territorial Sea and the Contiguous Zone, which stated that " The contiguous zone " — which was part of the high seas — " may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured. " The difficulty was that of determining the limit of the territorial sea within that maximum of twelve miles. The fact that, as the International Law Commission had recognized, international practice was not uniform in the matter, meant that there was no relevant rule of international law; for uniformity was an essential ingredient of any rule of customary international law.

15. In the absence, therefore, of a rule prohibiting the extension of the territorial sea up to a distance of not more than twelve miles, and in the absence of any limitation of the sovereign right of States in that respect by the Charter of the United Nations or by any other general international instrument of a binding character, there could be no valid reason for denying the coastal State its right to establish the breadth of the territorial sea by unilateral action.

16. One of the main objections raised to the recognition of that right rested on the freedom of the high seas. Freedom of navigation on the high seas was no doubt one of the basic principles of international law, but it was already adequately safeguarded by the right of innocent passage, which, long recognized by customary international law, had finally been formally proclaimed in the 1958 Convention on the Territorial Sea and the Contiguous Zone. The extension by a few miles of the breadth of the territorial sea would in no way detract from it.

17. The practical objections that had been raised to an extension of the territorial sea up to a distance of twelve miles were not universally valid, since conditions varied from continent to continent. Thus, for example, the objection based on the limited range of lighthouses did not apply to South America, where, as a survey carried out by his delegation showed, the average range of 288 lighthouses was 13.2 nautical miles; moreover, the average for each country or territory in the region, with the exception of French Guiana and Surinam, was appreciably greater than twelve miles.

18. For those reasons, his delegation regarded the proposal to recognize the right of each State to fix the breadth of the territorial sea up to a limit of twelve nautical miles as the best formula. He recalled that that formula had had its origin in a Uruguay proposal made at the Second Meeting of Ministers of Foreign Affairs of the American States held at Havana in 1940. That proposal had been submitted by the Ministers of Foreign Affairs to the Inter-American Neutrality Committee, which had adopted it in a recommendation on 8 August 1941, with the United States representative dissenting. The text of that recommendation read:

> " The sovereignty of each State extends, along the respective maritime coasts, to a distance of 12 miles

[1] See *Final Act of the Third Meeting of the Inter-American Council of Jurists, Mexico City, 17 January - 4 February 1956* (Washington, D.C., Pan-American Union, 1956), p. 36.

counted from low-water mark on the mainland or on the shore of islands which form part of the national territory." [2]

The Inter-American Neutrality Committee, giving its reasons for making the recommendation, had stated that it had come to the conclusion:

"... that it would be desirable to adopt, as a definitive rule of sovereignty over territorial waters, the maritime area between the coasts and a line 12 miles from shore." [3]

19. With regard to the question of fishery limits, there appeared to be no divergence of view about their extent or about the nature of the coastal States' rights therein. All the proposals before the Committee recognized in principle the exclusive fishing rights of the coastal State up to a distance of twelve miles. The only difference of opinion concerned so-called " historic rights ". In that respect, he agreed with the arguments put forward by the representative of Canada at the 5th meeting, in demonstration of the fact that the recognition of a permanent exception in perpetuity for the benefit of the very limited number of States which claimed such " historic rights " would be inconsistent with the principle of the sovereign equality of States. He himself wished to add two supporting arguments. First, the recognition of " historic rights " would prejudice precisely those States which until 1953 had abstained from adopting unilateral measures, although they had had the undisputed right to do so, in the hope that an agreed solution of a general character would materialize; Uruguay was one such State. Second, it was difficult to see how the activities of private enterprise, which did not always operate through the same persons and did not represent any public authority, could be deemed to confer rights on the flag State in sea areas subject to the sovereignty or exclusive jurisdiction of another State.

20. He had so far considered the two questions before the Committee in the light of the interests of States. He now wished to deal briefly with a more general aspect. Although the Conference had met for the purpose of formulating rules of a legal nature, it should bear in mind that it also had important political objectives, objectives which were essential to the peace and security of the international community. Nations participating in the Conference should therefore be prepared to sacrifice their more extreme positions for the sake of producing an instrument likely to gain general acceptance. For its part, his delegation was prepared, in the interests of general harmony, to agree to solutions which fell short of what it regarded as the optimum, provided that such a compromise could be engineered without placing any vital interest in jeopardy.

21. Mr. DE PABLO PARDO (Argentina) said that, although the Conference was called upon to examine the problem of the breadth of the territorial sea and that of fishery limits together, each could and should be settled separately; the territorial sea and the contiguous fisheries zone were subject to different régimes and did not involve jurisdiction of the same scope.

22. As long ago as 1918, the eminent Argentine jurist and economist, José León Suárez, had urged that the question of the regulation of maritime hunting and fishing be dissociated from that of the régime of the territorial sea, and that, whatever the extent of that sea, the coastal State should be empowered to legislate for conservation purposes, and to control fishing activities over a wider area — preferably the whole of the superjacent waters of its continental shelf.

23. With regard to the territorial sea, Argentina had admitted, both at inter-American meetings and at the first United Nations Conference on the Law of the Sea, the right of States to extend their territorial sea beyond three miles, a distance that was still in force in Argentina under the Civil Code. That position was consistent with a trend which had become apparent throughout the world even before the Codification Conference of 1930, and which had recently been confirmed by the United Kingdom in its agreement with Denmark regarding the Faroe Islands. The Argentine delegation was prepared to consider with sympathy proposals submitted on the subject, and hoped that one of them would be adopted by the Conference.

24. The question of fishery limits was of the greatest importance to Argentina with its extensive continental shelf, which was one of the most extensive in the world. As was well known, the superjacent waters of a continental shelf were particularly favourable to the development of marine life. The continental shelf of Argentina was no exception, and utilization of the living resources of the superjacent waters was being intensively developed. The rate of development was likely to increase with technical advances and with the growth of the country's population. His delegation believed that if the Conference found itself unable to settle the question of fishery limits with due regard for the particular economic and geographical conditions of the various countries, serious international conflicts and disputes would be inescapable in the future.

25. His delegation was particularly concerned about the general tendency at the Conference to consider that fishery limits should be set at a maximum distance of twelve miles from the coast.

26. In his delegation's opinion, the coastal State should enjoy preferential fishing rights in the waters adjacent to its territorial waters even beyond an exclusive fishing zone fixed on a purely numerical basis devoid of all scientific foundation. Such rights should include the right of the coastal State to regulate fishing, and preferential fishing rights for its nationals. He felt certain that none of the States represented at the Conference wished to claim exclusive fishing rights in vast expanses of the high seas; but no one could deny them the preferential right to control and regulate fisheries in their adjacent seas, particularly as the coastal State's special interest had been recognized in international law. He drew attention to article 6, paragraph 1, of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, which provided that:

" 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] *American Journal of International Law, Supplement*, vol. 36, 1942, p. 19.

[3] *Ibid.*

27. The exercise of the coastal State's control was a matter of interest not only to that State but also to the international community at large, as it would facilitate the application of the conservation measures under the 1958 Convention just quoted. His delegation believed, however, that the provisions of that Convention were inadequate to safeguard the coastal State's preferential fishing rights in its adjacent waters.

28. The coastal State's fisheries jurisdiction over the high seas adjacent to its territorial sea was based on two closely related factors, one geographical, the other economic. The geographical factor was that of contiguity. He recalled in that connexion that the concept of the territorial sea, that of the contiguous zone and that of the continental shelf were all based on the geographical phenomenon of continuity. The International Law Commission had stated, for example, with reference to the coastal State's rights over the continental shelf:

> " Neither is it possible to disregard the geographical phenomenon whatever the term — propinquity, contiguity, geographical continuity, appurtenance or identity — used to define the relationship between the submarine areas in question and the adjacent non-submerged land." [4]

29. As to the economic factor, the interest of the coastal State in the matter of fisheries in the adjacent waters was obvious. That interest, which had been explicitly recognized by the 1958 Conference, had been made plain in the declarations issued and in the legislative measures adopted by many States. The economic interest of the coastal State had also been recognized in all the proposals submitted to the Conference. For instance, there was general recognition of the coastal State's interest and jurisdiction in a contiguous zone in the matter of customs. There was therefore no valid reason for denying to the same coastal State a similar interest, and a similar jurisdiction, in relation to exclusive or preferential rights to fishery resources. In that connexion, Masterson's remarks were noteworthy:

> " It is submitted that the real basis for this special jurisdiction and the test of its soundness from the standpoint of international law is found in the theory of interests. The facts of life — the needs of nations — must be considered in this connexion. The state clearly must exercise jurisdiction in the waters adjacent to its coasts for the purpose of protecting its various interests." [5]

30. One of the resolutions adopted at the 1958 Conference had referred to the " situation of countries or territories whose people are overwhelmingly dependent upon coastal fisheries for their livelihood or economic development ".[6] In the opinion of the Argentine delegation, the coastal fisheries belonged to the coastal State and constituted an important element of its economy, whatever the degree of dependence upon those fisheries.

31. Nevertheless, his delegation appreciated the special position of those countries which for many years had been engaged in fishing a long way from their own coasts, where such activity was vital to the economy of the countries concerned. The Conference could, as an exception, recognize that special position if the activities in question had gone on uninterruptedly for a long time, and provided that a time-limit was laid down for the exercise of the rights thus recognized, naturally with due regard for the unemployment and loss of invested capital which might result from their sudden termination.

32. His delegation also wished to draw attention to the importance of bilateral agreements in the settlement of specific questions connected with the law of the sea; he was happy to mention in that connexion the agreement between Chile and Argentina concerning navigation in jurisdictional waters, concluded only a few days after the settlement of border questions affecting the two countries.

33. Lastly, his delegation hoped that the Conference would succeed in devising rules for the determination of the extent of the territorial seas with due regard for the interests of navigation, and in laying down fishery limits in such a way as to recognize the natural rights of the coastal State in the fishing grounds of the adjacent seas.

34. Mr. ASAFU-ADJAYE (Ghana) said that the achievements of the first United Nations Conference on the Law of the Sea had been considerable. He hoped that its work would now be brought to a successful conclusion by the elaboration of a formula that would bring about uniformity in state practice and strike an equitable balance between divergent interests. The blind pursuit of national interests without regard for those of others would not lead to a solution, which above all called for a willingness to compromise; that was the spirit in which his delegation was participating at the present Conference. A rule of any kind would be preferable to the present chaotic state of the law.

35. The various proposals before the Conference could be reconciled by adopting a maximum permissible limit for the territorial sea and fisheries zone within the range of state practice, which the International Law Commission had recognized as being diverse. While sympathizing with the genuine national needs that had prompted the proposals submitted by Mexico (A/CONF.19/C.1/L.2) and the Soviet Union (A/CONF.19/C.1/L.1), the fate of similar proposals at the last Conference, allowing delimitations of the territorial sea up to twelve miles, suggested that they would not provide an adequate basis for agreement. He made that point despite Ghana's own preference for a twelve-mile limit, which it would favour in default of any other agreement.

36. Bearing in mind the need for a generally acceptable solution, his delegation had carefully weighed the proposals submitted by Canada (A/CONF.19/C.1/L.4) and the United States (A/CONF.19/C.1/L.3). The essential difference between the two was that the former provided for an exclusive fishery zone of six miles for all time beyond the maximum permissible breadth of six miles for the territorial sea, whereas the latter provided for an outer zone that would be permanently non-exclusive.

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[4] See paragraph 8 of the commentary on article 68 of the articles concerning the law of the sea. *Official Records of the General Assembly, Eleventh Session, Supplement No. 9*, p. 43.

[5] William E. Masterson, *Jurisdiction in Marginal Seas, with Special Reference to Smuggling* (New York, The Macmillan Company, 1929), p. 381.

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

37. The case of countries with large numbers of their people dependent upon distant-water fishing for their livelihood deserved consideration, and it was impossible to remain insensible to the economic and human hardship which the complete exclusion of such countries would cause. On the other hand, his delegation appreciated the coastal State's anxiety to preserve its offshore fisheries. In contrast to the proposal it had put forward at the first Conference,[7] the United States delegation was now seeking to meet the legitimate needs of coastal States by imposing a limit on the extent to which non-coastal States entitled by reason of past practice to fish in the outer six-mile zone could continue to do so. Two criticisms might be levelled against that proposal. First, it should have placed a time-limit on the right to fish acquired by a fishing practice of five years' standing. That historic right could not be based on prescription, and the principle of perpetuity was therefore inapplicable. The time-limit should be regarded as providing a period for readjustment that would enable the fishing State to find other fishing grounds, or to adapt its economy to minimize the economic loss to its population. It should also give the coastal State enough time to develop its fishing potential in such a way that, once it had acquired exclusive rights over its fishing zone, it would be able to exercise them in a manner designed to secure the maximum sustainable yield to the greatest benefit of those members of its population for whom fish formed the staple item of diet.

38. The second weakness of the United States proposal was that it failed to protect the coastal State against depletion of the stock or stocks of fish in the outer zone. The principle of conservation had already been recognized in the Convention on Fishing and Conservation of the Living Resources of the High Seas adopted in 1958: surely that principle was equally valid in respect of the outer zone, given that the primary interest of the coastal State was involved in both cases.

39. On those two counts the United States proposal failed to safeguard the coastal State's legitimate needs.

40. Furthermore, he urged that where, during any period, the need for conservation was scientifically demonstrated, the non-coastal State should be obliged to enter into an agreement with the coastal State or States for purposes of initiating the necessary conservation measures. If no agreement could be reached, the coastal State, or any of the States concerned, should be at liberty to refer the matter to the expert commission envisaged in the new United States proposal. That commission should be empowered to determine not only whether the situation was ripe for conservation measures, but also the nature of the measures to be taken. It should also have power to decide whether the non-coastal State could continue to fish, and to what extent, pending final decision. He hoped there would be overwhelming support for the proposal that the proper method of settling disputes was by recourse to an expert and impartial body: only thus could the interests at stake be effectively protected and peace maintained.

41. While supporting a twelve-mile limit, his delegation might table a compromise proposal with a view to reaching agreement, should necessity arise. The Conference must not fail in its task of reconciling equitably the interests of both coastal and non-coastal States, thereby furthering international harmony.

The meeting rose at 12.30 p.m.

[7] *Ibid.*, document A/CONF.13/L.29.

FOURTEENTH MEETING

Monday, 4 April 1960, at 3.15 p.m.

Chairman: Mr. José A. CORREA (Ecuador)

Consideration of the questions of the breadth of the territorial sea and fishery limits in accordance with resolution 1307 (XIII) adopted by the General Assembly on 10 December 1958 *(continued)*

GENERAL DEBATE *(continued)*

Statements by Mr. Cuadros Quiroga (Bolivia), Mr. Erkin (Turkey), Mr. Subardjo (Indonesia) and Mr. Melo Lecaros (Chile)

1. Mr. CUADROS QUIROGA (Bolivia) said it was generally agreed that the first United Nations Conference on the Law of the Sea had been a success and had made considerable progress towards the codification of international maritime law. None of the four proposals submitted at the second Conference regarding the breadth of the territorial sea and the contiguous zone (A/CONF.19/C.1/L.1-L.4) appeared likely, however, to be able to muster the required two-thirds majority. Each country, not unnaturally, wished to preserve what it conceived to be its own interests and was supporting its position with weighty historical arguments. It was however, becoming clear that, eventually, for the sake of international harmony, a compromise would have to be worked out reconciling the divergent national interests. In effect, what was needed for the purpose of the progressive development of international law was the development of international relations.

2. At one time it had seemed that the two extreme schools of thought — that of the adherents of a three-mile limit and that of countries claiming 200 miles — were utterly irreconcilable. The General Assembly had wisely thought that some middle ground could be found, and it was now apparent that a majority of States was prepared to consider a twelve-mile limit, although differences remained about the status to be accorded to the outer six miles. The United States proposal (A/CONF.19/C.1/L.3) made provision for fishing rights, whereas the other proposals did not. A conflict still subsisted between the concept of sovereignty and that of historic fishing rights. The really decisive factors would be practice and the extent to which various countries were dependent on supplies of fish. Fishing on the high seas was not carried on exclusively by the fishing fleets of the more