Second United Nations Conference on the Law of the Sea

Geneva, Switzerland
17 March – 26 April 1960

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Seventeenth 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)*

established rules and practices. It favoured a maximum limit of six nautical miles for the territorial sea. It also accepted, in principle, the establishment of an additional fishing zone not exceeding a further six miles, provided that it was accompanied by suitable provisions to avoid undue harm to existing rights and to allow sufficient time for the completion of the necessary supplementary bilateral or multilateral agreements.

12. With regard to the question of exceptional situations, such as that of Iceland, he said the general trend of opinion in the Conference seemed to indicate that most of the legitimate anxieties and requirements in that connexion could be satisfied. However, since any formula which the Conference might finally adopt would be of a general nature and would not be designed to cover in detail every particular contingency, Israel believed that the Conference should explicitly recognize the existence of exceptional situations.

13. Mr. LAMANI (Albania) said that the exchanges of views in 1958, even if they had not yielded concrete results, had at least cleared the way. The attempt made by certain countries at that time to impose the alleged three-mile rule had failed. Nor had the supporters of the three-mile rule succeeded in securing acceptance of the six-mile limit, which they had represented as a compromise, whereas it had been in fact an attempt by the colonial Powers to preserve privileges previously acquired at the expense of defenceless peoples. In 1958, and again in 1960, a large number of States had expressed their preference for a territorial sea extending to a twelve-mile line. The International Law Commission had stated that international practice was not uniform and had expressed the view that international law did not permit an extension of the territorial sea beyond twelve miles;[1] the inference to be drawn from that conclusion was that every State was entitled to claim up to twelve miles without thereby violating international law. Moreover, the synoptical table prepared by the Secretariat (A/CONF.19/4) showed that, apart from a few exceptions, States had adopted limits not exceeding twelve miles. The conclusion of the International Law Commission was, accordingly, well on the way to becoming a general rule. That was why the Soviet Union proposal (A/CONF.19/C.1/L.1), which was very flexible, offered the most satisfactory formula and had the best chance of being adopted by the Conference.

14. In Albania's case the limit that would best safeguard the security of the State was that of twelve miles; it had often happened that maritime Powers had carried out demonstrations of force off the shores of a weaker country, in order to intimidate it. The twelve-mile limit would help to remove certain misunderstandings and to improve the international atmosphere. He did not agree with the argument that the twelve-mile limit would impair the freedom of the seas; innocent passage through the territorial sea was a generally accepted practice which was expressly recognized in the 1958 Convention on the Territorial Sea and the Contiguous Zone.

15. The countries which were so zealous in defending the freedom of the high seas were precisely those which undermined that freedom by building radar stations far out at sea for the ostensible purpose of international security. In that connexion he cited a passage from a book by Mr. Olivier de Ferron,[2] which mentioned that at the 1958 Conference certain encroachments on the high seas had been overlooked; namely, the construction by the United States of America of a chain of radar towers called " Texas towers ", at a distance of 150 miles from that country's coast. Built on floating platforms, those towers were anchored to the sea-bed and constituted so many encroachments on the high seas, with the consequence that large areas were in effect brought under the sovereignty of the coastal State, in breach of international law.

16. By a decree of 4 September 1952, Albania had fixed the breadth of its territorial sea at ten miles. One-third of Albania's frontier ran along the coast, and the coastal waters were rich in fish. Since its liberation, Albania had created a new fishing industry and established a number of canneries, which contributed materially to the strengthening of the national economy. Its example disproved the assertion that small countries could not exploit their resources themselves. In some quarters it was desired to perpetuate the humiliating position of the small countries; but the liberation of the peoples was proceeding, and the process could not be reversed. The young nations wanted to make use of their resources themselves; they should be given the opportunity to do so, all peoples should be treated as equals, and the rights of others should be respected. That was the realistic spirit in which the Conference should approach the problems before it; the practice that had grown up should be adopted as the rule of law.

The meeting rose at 4 p.m.

[1] *Official Records of the General Assembly, Eleventh Session, Supplement No. 9*, p. 4.

[2] *Le droit international de la mer* (Geneva, Librairie E. Droz, 1958), vol. I, p. 157.

SEVENTEENTH MEETING

Wednesday, 6 April 1960, at 10.30 a.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. Hassan (United Arab Republic), Mr. Sohn (Republic of Korea), Mr. Matine-Daftary (Iran), Mr. Elizondo (Costa Rica) and Mr. Povetiev (Byelorussian Soviet Socialist Republic)

1. Mr. HASSAN (United Arab Republic) said that, while it was generally recognized that the first United Nations Conference on the Law of the Sea had been most successful, that Conference had none the less failed to reach agreement on the questions of the breadth of the territorial sea and fishery limits, largely because

its approach to those two issues had been unrealistic. The present Conference could itself succeed only if it took into account the realities of the international situation and the vital interests of all States, and made no attempt to impose arbitrary rules or to adopt decisions that could not be regarded as universally accepted. Although his Government had had some misgivings about the advisability of convening the present Conference so soon after the first, it had agreed to that course in a spirit of conciliation, and in the hope that a proper approach would lead to a generally agreed solution. The United States representative had drawn attention both to the hazards that lay ahead unless agreement was reached and to the serious effects the controversy had already had on friendly relations between certain States. Moreover, the United Kingdom representative had stated that, should the Conference fail to reach agreement, his Government would revert to the three-mile rule. Such statements did not contribute to the atmosphere which should prevail in a conference of representatives of sovereign governments meeting to work out a freely agreed and generally acceptable solution.

2. Elaborate juridical arguments had been adduced to support different interpretations of article 3 of the draft articles prepared by the International Law Commission, but the problem was not a purely legal one, otherwise the Commission would surely have found an appropriate solution to it. At the instance of the Commission itself, the present Conference was now assembled for the purpose of formulating and adopting rules that would be freely accepted. Any such rules should be based on general state practice, not on that of a handful of States that had repeatedly been challenged and now finally rejected. The general practice he had in mind was coming to command universal acceptance, and commended itself in particular to the countries which had recently gained their independence and which had a right to take part in the formulation of the rules and norms of international law. For economic and security reasons the small and economically less developed countries were in favour of a broader territorial sea up to twelve miles in width, or of the establishment of exclusive fishing zones. Those countries in particular were faced with the need to develop their natural resources and improve the living standards of their peoples.

3. Whereas the Canadian proposal (A/CONF.19/C.1/L.4) took account of such economic factors, the United States proposal (A/CONF.19/C.1/L.3) would seriously limit the rights enjoyed by coastal States in their contiguous fishing zone. The delegation of the United Arab Republic believed that the Conference ought not to sanction any rule that discriminated against the small countries which had not had the same opportunities as the great maritime Powers of acquiring historic fishing rights. As the representative of Ghana had stated in the Sixth Committee of the General Assembly,[1] the Conference should quash any idea that historic rights could be invoked as grounds for conferring fishery privileges on certain States. At the 8th meeting the representative of Yugoslavia had rightly stated that such "historic rights" had no legal basis; they had been imposed by force, having had their origin in colonialism.

4. To safeguard its national security, a coastal State needed a reasonably broad territorial sea to ensure that foreign warships and military aircraft were unable to pass through or over areas closely adjacent to its coast for purposes of intimidation. Small countries attached particular importance to that aspect of the territorial sea, and at the first Conference had consistently opposed the adoption of any provision that did not explicitly recognize the right of the coastal State to make movements of foreign warships in its territorial sea subject to its authorization. In that respect, the Canadian proposal did not provide adequate protection for small countries. Although some speakers had questioned the importance of a twelve-mile territorial sea to a coastal State from the point of view of national security, he would emphasize that many small countries were deeply apprehensive about the possibility of foreign warships and aircraft staging demonstrations of force off their coasts. He hoped that, in its proper preoccupation with the sea, the Conference would not overlook the real threat that military aircraft could constitute in that respect.

5. His Government's attitude to the matters under discussion was prompted not by political expediency relating to a specific situation, but by considerations of general policy, based on sound legal principles and dictated by compelling economic and security needs. The general discussion had revealed that that position was shared by a great number of countries in different parts of the world, the majority of them small and newly independent. He emphatically denied that at the first Conference the attitude of some of the Arab countries to the law of the sea had been coloured by a political problem relating to a certain part of their territorial waters, as had been alleged by the present leader of the United States delegation in two articles published in 1958.[2]

6. While his delegation shared the earnest hope expressed by many speakers that the Conference would meet with success, it was convinced that real success could only be found in the adoption of an equitable rule of law based on sound principles and capable of reconciling the interests of all States, large and small alike. It would therefore support any proposal that fully recognized the right of a coastal State to determine the breadth of its territorial sea between the limits of three and twelve miles.

7. Mr. SOHN (Republic of Korea) said that his delegation shared the optimistic view expressed by many other delegations that the present Conference would find a satisfactory solution to the closely related problems of the breadth of the territorial sea and fishery limits. He recalled that at the first Conference the great maritime Powers had advocated a three-mile or a six-mile limit for the territorial sea — a preference that was perhaps understandable in the light of their large fishing interests extending to waters adjacent to the coasts of other States — whereas many of the small nations had favoured

[1] *Official Records of the General Assembly, Thirteen Session, Sixth Committee*, 584th meeting.

[2] Arthur H. Dean, "Freedom of the Seas", *Foreign Affairs*, vol. 37, October 1958, No. 1, pp. 83 ff., and "The Geneva Conference on the Law of the Sea: What was Accomplished", *American Journal of International Law*, vol. 52, October 1958, No. 4, pp. 607 ff.

a wider territorial sea, which they considered necessary for safeguarding their paramount interests in the seas adjacent to their coasts. However, many of those smaller States had advocated a twelve-mile territorial sea, not so much for security reasons as to enable themselves to exercise exclusive control over fishing and the exploitation of the other living resources of that sea, and there were now encouraging signs that a majority of coastal States would be willing to forgo a twelve-mile territorial sea if exclusive fishing rights were recognized to them in a wider zone of their coastal high seas. The main divergence of views persisted, but a satisfactory compromise between the position of the coastal States and that of the maritime Powers might perhaps be found in a uniform rule providing for a territorial sea of less than twelve miles, but allowing coastal States to exercise control over fishing in the contiguous zone, and in an outer high-seas zone if necessary. Every State naturally wished to safeguard its national security and the well-being of its people when determining the breadth of its territorial sea and fishery limits, and due consideration should be given to the needs and circumstances of coastal States.

8. His delegation believed that, in deciding the question of fishery limits, the Conference would be obliged to recognize the validity of the fundamental concept that the right of a coastal State to fish in its coastal waters should take precedence over that of other States wishing to fish there. The coastal State enjoyed prescriptive fishing rights in its coastal waters and was therefore entitled to preferential treatment in them. Moreover, a large part of the population of such coastal States as Korea depended on coastal fisheries for its livelihood, unlike the people of those States which possessed large and well-equipped fishing fleets. Many coastal States and their peoples had made severe sacrifices to apply and enforce fishery conservation measures in their coastal waters, and it would be unfair to allow the nationals of other States to fish without restriction in those waters, particularly where the optimum sustainable yield would suffer. A non-coastal State or States wishing to continue to fish in the coastal high seas of another State should conclude a bilateral or multilateral agreement with the latter on the regulation and limitation of fishing in the area concerned, under which the coastal State should be allowed to regulate fishing in and the exploitation of the living resources of its coastal high seas, the nationals of other States being obliged to comply with any conservation regulations enacted to that end.

9. As other speakers had pointed out, the circumstances and legitimate interests of coastal States varied, and, although it would be generally desirable to have a rule of universal application, any rigid formula which failed to take account of such differences would be unrealistic and hence unacceptable to many States. Certain cases undoubtedly called for special consideration and special treatment, and provision would have to be made for the parties concerned to adjust their interest through bilateral or multilateral agreements, with due regard for the geographical political, economic and historical factors involved. Thus, any formula adopted by the Conference should be sufficiently flexible to encourage the coastal and distant-water fishing States concerned to conclude appropriate regional agreements.

10. His delegation was entirely in agreement with the principle of the preferential requirements of States dependent on coastal fisheries, as set forth in resolution VI adopted by the first Conference.[3] That resolution applied only to exceptional situations, but his delegation hoped that, as the Cuban representative had suggested, the application of the principle might be extended to coastal States in general, thus enabling them to invoke more freely their preferential right to safeguard their legitimate interests and needs.

11. In conclusion, his delegation earnestly hoped that agreement would be reached on a just and fair means of utilizing the resources of the sea, on which both coastal and other States depended.

12. Mr. MATINE-DAFTARY (Iran) was convinced that all those taking part in the Conference, and especially those who had also taken part in the first Conference in 1958, wished on the present occasion to settle the question — the line of demarcation between the two zones of the sea — on which the implementation of the Convention on the Territorial Sea and the Contiguous Zone and the Convention on the High Seas depended. Failure on the part of the Conference would not only render part of the noteworthy achievements of 1958 useless and unproductive; it would also put international shipping in a chaotic situation from which it would be difficult to find a way out in the near future. Since the first Conference, despite the fact that it had often been hamstrung by the international tension prevailing at the time, had succeeded in codifying almost the whole of international law relating to the sea, there were grounds for hoping that now that the international climate had taken a decided turn for the better, the second Conference would be able to settle the problem of the breadth of the territorial sea.

13. In his delegation's view, the sole solution that met the requirements of the majority of States in the matters of security, conservation of marine resources and national economy was to leave States free to fix the breadth of their territorial sea at any distance up to twelve nautical miles, on the basis of international practice as confirmed by the International Law Commission after a thorough study of the question extending over several years. He recalled that he had already had occasion to demonstrate, in the Second Committee of the first Conference,[4] why the maritime powers were attached to the doctrine of *mare liberum* and why they persisted in ceding no part of the high sea, which for them was *mare nostrum*. The three-mile rule was now outdated, but it was still being harped upon with the object of securing more favourable consideration for the six-mile compromise formula; it should be noted, moreover, that it had been said that that compromise was revocable, in order to emphasize the fact that prior to 1958 the maritime Powers had never subscribed to a breadth of more than three miles for the territorial sea. The example of Mexico — whose representative had cited a number of treaties recognizing breadths of up to twenty kilometres for Mexico's territorial sea — was enough to demolish the argument that the six-mile formula represented a compromise.

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

[4] *Ibid.*, vol. IV, 11th meeting.

14. The Governments that were against the twelve-mile limit invoked technical or administrative arguments in support of their contention, especially the difficulty of anchoring in the high sea adjacent to a territorial sea twelve miles broad, the poor visibility resulting from the adoption of such a breadth, the difficulty that shipping would experience in establishing the demarcation line at such a distance from the shore, and, lastly, the heavy responsibility that would fall upon the coastal State in organizing and maintaining effective control over such a large sea area.

15. Shipping experts did not admit the validity of all those technical arguments. Inadequate visibility would affect only coastal shipping, for which shore signals were provided. Astral navigational methods were now so highly developed that even fishermen were invariably able to fix their position. Shore-marks could easily be picked up by radar. As to anchoring, the depth of the sea did not depend on the distance from the coast. In some places near the coast the sea was too deep for anchoring and *vice versa*. One wondered, moreover, why the master of a ship should wish to anchor twelve miles from the coast in a depth of possibly 700 fathoms unless his vessel was in distress, in which case he could make for the nearest port and anchor there pursuant to the right of passage, which, under article 14, paragraph 3, of the Convention on the Territorial Sea and the Contiguous Zone, included the right of stopping and anchoring, in particular in the event of *force majeure* or distress.

16. With regard to the responsibility for control, which devolved upon the coastal State, he pointed out that States were free to fix the breadth of their territorial sea anywhere between three and twelve miles, according to their resources; States which were not yet in a position to wield effective control over a breadth of twelve miles could do so later, as and when their financial and technical means allowed. The twelve-mile formula had the merit of being flexible enough to allow of its adaptation to any situation. He quoted as an example the case of his own country, which, from 1934 until 1958, had divided the twelve-mile breadth of Iranian waters into a territorial sea six miles broad and a contiguous zone of like width. In 1959 it had extended its control to take in a territorial sea twelve miles broad, solely for security reasons, since it had possessed acquired rights over the living resources of the sea throughout that zone before that extension of sovereignty. All the living resources of the Persian Gulf belonged by historic right to all the coastal States thereof, that right having been expressly laid down in article 7 of the Iranian law of 1959 on the territorial sea. Iran's two neighbours, Saudi Arabia and Iraq, likewise coastal States of the Persian Gulf, had been moved by the same concern for security when they had increased the breadth of their territorial sea to twelve miles before Iran had done so. The same held good for many African, Asian and Latin-American States, especially those which, after having been the subjects of colonialism based mainly on naval power, had recently gained their independence. The tragic memory of the appearance of warships in the coastal sea, threatening any liberation movement in those countries, was still unforgettable, and a breadth of six miles, insufficient as it was to keep warships out of sight, would not give such countries an adequate safeguard. A highly important psychological factor, which the great sea Powers would have to appreciate better if they really wished to dispel the mistrust and uneasiness that at present divided the world, was involved.

17. The compromise offered by the maritime Powers, in the shape of a six-mile zone — called a fishing or " outer " zone — in which the coastal State would possess so-called " exclusive " fishing rights, did not stand up to examination. It was inconceivable that the coastal State would be able to enforce its exclusive fishing rights unless it enjoyed in the zone in question sovereign rights enabling it to enact such laws and regulations as were necessary to ensure the security of fishing, and to prohibit fishing by foreign vessels therein, in conditions similar to those which, under article 14, paragraph 5, of the Convention on the Territorial Sea and the Contiguous Zone, prevailed in the case of the territorial sea. Exclusive fishing rights would be illusory if warships — for which the fishing zone was simply the high seas — availing themselves of their absolute immunity and policing rights, could indulge in operations that would constrain the coastal State to give up fishing. The outcome would be a state of insecurity far from propitious to investments to develop fishing in what were known as the " economically under-developed countries ".

18. He recalled that for the continental shelf the Fourth Committee of the first Conference on the law of the sea had proposed exclusive rights alone.[5] It had been at the instance of the representatives of India and Iran that that Conference had decided to replace the expression " exclusive rights " by the expression " sovereign rights " in the Convention on the Continental Shelf.[6]

19. The second Conference could succeed only if the maritime Powers came to the realization that an outer zone devoid of sovereign rights and of restrictions on the movements of warships would be worthless. The outer zone, with sovereign fishing rights included and freedom of action by warships precluded, would be virtually equivalent to the territorial sea. Since the maritime Powers were so strong that they had nothing to fear from the application of the twelve-mile principle, he urged them to accept that principle outright. If they did not do so, the Conference would fail, and it was in the general interest to avoid the need for a third conference on the law of the sea.

20. Mr. ELIZONDO (Costa Rica) said that, as a small peace-loving nation with strong democratic traditions, his country had throughout its history consistently worked to improve its good relations with other nations.

21. The basic principle of the sovereign equality of States, embodied both in the Charter of the United Nations and in that of the Organization of American States, implied that international relations were governed by the rule of law and that countries were equal before the law regardless of their political, military or economic strength. It was in that spirit that the various countries represented at the Conference had been called upon to participate in the settlement of the important problems

[5] *Ibid.*, vol. II, annexes, document A/CONF.13/L.12.

[6] *Ibid.*, vol. II, 8th plenary meeting.

of the territorial sea and fishery limits, and that Costa Rica would contribute to their efforts to find acceptable solutions to those problems.

22. All those who had so far spoken had agreed that the two important issues in question had been the subject of prolonged controversy without any uniform rule having emerged either in state practice or in written jurisprudence. That situation accounted for the diversity of views on the subject, and the enactment at national level of successive statutory provisions which tried out one solution after another, each in turn being replaced by an improved formula.

23. His delegation considered that the formula which sought to establish a territorial sea six miles broad represented a satisfactory compromise between the various proposals to extend the traditional, but now obsolete, three-mile limit, and that the adoption of such a six-mile limit would not impair the freedom of navigation.

24. Extensive claims were out of the question for Costa Rica, which was aware of the legal consequences of such claims and of the obligations and duties flowing from them. Costa Rica, having an eminently pacifist tradition, had abolished by constitutional provision the army as a permanent institution. His country did not therefore possess the necessary power to enforce its authority over unduly large areas, particularly since it had a coast both on the Pacific and on the Atlantic Ocean. It was therefore out of the question for it to assume the grave obligations and heavy expenditure that greater claims would entail. The six-mile formula was accordingly acceptable to his delegation, not only because it was a satisfactory compromise but also because it suited Costa Rica's special circumstances.

25. His delegation also favoured the establishment of a fisheries zone, adjacent to the territorial sea, the living resources of which the coastal State could utilize for its economic development and food supply. Costa Rica did not yet engage in large-scale fishing, but the industry was developing; moreover, coastal fisheries already provided the coastal inhabitants with a livelihood. It was therefore in the conviction that the utilization of the living resources of the sea would, in the not too distant future, prove to be one of the most effective instruments of economic development, and make an important contribution to his country's food supply, that his delegation supported the proposal for the establishment of a fisheries zone six miles broad, in which the coastal State would exercise the various rights which that zone implied.

26. Lastly, he expressed his sincere hope and belief that the joint efforts of all present would finally lead to a satisfactory solution of the questions before the Conference.

27. Mr. POVETIEV (Byelorussian Soviet Socialist Republic) said that, faithful to its policy of peaceful co-existence and co-operation with all States regardless of their social system, his Government was convinced that all controversial problems, no matter how complex, could be settled by negotiation and conciliation, given goodwill and the determination to take the mutual interests of States concerned into account as fully as possible. But such a task sometimes needed time, and together with others, his delegation had argued at the thirteenth session of the General Assembly that the Second United Nations Conference on the Law of the Sea should not be convened too hastily, on the grounds that little real change had occurred in the attitude of Governments on the question of the breadth of the territorial sea since the first Conference, and that it might even be inimical to a solution of the question of the breadth of the territorial sea to hold another too soon. Some delegations had thought otherwise. Nevertheless, his delegation hoped that a generally acceptable solution would emerge.

28. The proposals before the Committee could be placed in one of two groups: those providing for a territorial sea up to twelve miles broad, and those limiting the breadth to six miles. The proposals of the Soviet Union (A/CONF.19/C.1/L.1) and Mexico (A/CONF.19/C.1/L.2) were identical so far as the delimitation of the territorial sea was concerned, and offered an acceptable basis for agreement, since they were inspired by a realistic assessment of the trend in international practice whereby each coastal State determined the breadth of its own territorial sea within the maximum of twelve miles, as the maintenance of its security, sovereignty and independence and the protection of its economic interests demanded. Such a solution would be consistent with the conclusions of the International Law Commission, reached after exhaustive study.

29. The merit of those two proposals was that they took more fully into account than others the interests of all coastal States in accordance with the principles of sovereign equality and self-determination enshrined in the Charter of the United Nations and various decisions of the Organization. They recognized the right of all countries, great or small, to exploit their natural resources freely, and would help the less developed countries to expand their economy and raise their standards of living.

30. His delegation found the proposals of the United States (A/CONF.19/C.1/L.3) and Canada (A/CONF.19/C.1/L.4), which sought to establish a six-mile limit, unacceptable. They ignored international practice and clearly discernable trends in the legislation of coastal States concerning their territorial sea. It was common knowledge that fourteen States had fixed a twelve-mile limit since 1945 and that at present sixteen States upheld it.

31. The advocates of a six-mile limit had declared themselves willing to make " concessions ", but if they genuinely regarded a three-mile limit as advantageous there was nothing to prevent them from adhering to it. In fact, the opponents of a twelve-mile limit were seeking to extort a real sacrifice out of a number of States already possessing a territorial sea wider than six miles to the detriment of vital interests consecrated by long usage.

32. The main objective of the champions of the six-mile limit was to obtain for their naval forces unconditional, so-called legitimate, access to foreign waters close to coasts in which they were interested for strategic or political reasons. Events during recent years had convincingly shown how certain Powers had made use of such methods to bring effective pressure to bear on other States whose policies they disliked. The real motives for opposing the twelve-mile limit were being kept out of sight and hearing.

33. At the Committee's 4th meeting, the United States representative had expressed his Government's preference for a three-mile limit, which in the United States' view would serve the interests of all countries. In explaining the United States Government's opposition to a twelve-mile limit, Mr. Dean had indicated that such a limit would allegedly be contrary to the interests of the majority, would hinder navigation, would cause serious incidents in international straits, would affect established sea routes passing through zones contiguous to territorial seas, and would cause anchorage difficulties. The Byelorussian delegation associated itself with the pertinent criticisms levelled against those factitious arguments, especially by the representatives of Poland and Yugoslavia.

34. Mr. Dean's statement on 20 January 1960 before the Senate Foreign Relations Committee shed some light on the real motives underlying the United States proposal. Referring to the preparations for the present Conference, Mr. Dean had said:

> " Our navy would like to see as narrow a territorial sea as possible in order to preserve the maximum possibility of deployment, transit and manoeuvrability on and over the high seas, free from the jurisdictional control of individual States."

Mr. Dean himself had supplied the answer why the United States Navy stood in such need when he had gone on to say:

> " The primary danger to the continuance of the ability of our warships and supporting aircraft to move, unhampered, to wherever they may be needed to support American foreign policy presents itself in the great international straits of the world — the narrows which lie athwart the sea routes which connect us with our widely scattered friends and allies and admit us to the strategic materials we do not ourselves possess."

Thus Mr. Dean had discussed the position of international straits in definitely strategic terms. He had worked out that a twelve-mile limit would result in 116 of the major international straits coming under the sovereignty of coastal States, whereas with a six-mile limit only 52 would be so affected. Mr. Dean had gone even further in stating that with a six-mile limit probably only 11 States would claim the right to terminate or interfere with the transit of United States warships or military aircraft, and had concluded that although this would " present a defence capability impairment, that impairment is believed to be within tolerable operating limits ".

35. Such were the fundamental motives of the so-called United States compromise proposal, and the considerations he had quoted — which had possibly not been intended for discussion at the present Conference — explained the determined refusal of the United States Government to accept a twelve-mile limit. Although in the Committee Mr. Dean had given entirely different reasons for his proposal, there was no reason to doubt the authenticity of the case he had put to the Senate Committee.

36. It should be added that United States naval forces were at present stationed far from their home waters. For example, the Sixth Fleet was in the Mediterranean, the Seventh Fleet off the coasts of the Chinese People's Republic, and the Fifth Fleet was assembling in the Indian Ocean — all of which proved that the United States Navy had been transformed into the instrument of a definite foreign policy.

37. It was hardly necessary to adduce further evidence to show that the United States' position with regard to the territorial sea had nothing to do with the progressive development of international law and with the purposes and principles of the United Nations Charter.

38. He reiterated his conviction that the problems before the Conference could be solved on the basis of the Soviet Union proposal, which constituted the only viable and realistic compromise. It was consistent with state practice, was, of general applicability and met the varied interests of all States. It would require neither substantial sacrifices on the part of any country nor a fundamental departure from national legislation in force. Adoption of the USSR proposal would be a positive contribution to the codification of the law of the sea, and would thus promote peaceful international co-operation.

39. The Conference could succeed only by reaching unanimous agreement on the breadth of the territorial sea, since without unanimity any agreement would remain a dead letter. The special feature of rules of international law regulating the relations between sovereign States was that they were created by agreement between States, and possessed legal force only by virtue of assent. Unfortunately, it was becoming apparent that participants in the Conference held opposing views about the breadth of the territorial sea, and that — as certain delegations had maintained at the thirteenth session of the General Assembly — the time was not yet ripe for devising a generally acceptable formula. If that was so, it might be wiser to wait until the question of the breadth of the territorial sea was really ready for codification.

The meeting rose at 12.15 p.m.

EIGHTEENTH MEETING

Wednesday, 6 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. Nisot (Belgium), Mr. Diallo (Guinea), Ato Goytom Petros (Ethiopia), Mr. Ponce y Carbo (Ecuador) and Mr. Liu (China)

1. Mr. NISOT (Belgium) said that the sea was *res communis*, an asset shared in common by all States on a footing of full equality. That was the view confirmed