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44th meeting

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sense and only in reference to small bodies of water such as those he had mentioned.

32. The term "semi-enclosed sea" as defined in article 1, paragraph (*b*), could be used in a broad sense to cover larger sea basins along the margins of the main ocean basins, more or less enclosed by a land mass— whether continental or insular—and with one or more narrow outlets to the oceans. Examples of that category of seas were the Caribbean Sea and the Andaman Sea. There were a great number of enclosed or semi-enclosed seas, gulfs and bays throughout the world, and some—like the Gulf of St. Lawrence, the Gulf of California, the Kara Sea, Hudson Bay and the Java-Flores-Banda group—were bordered by a single State. Others, such as the Sea of Okhotsk, the East China Sea, the South China Sea, the Mediterranean, the Celebes Sea, the Persian Gulf, the Red Sea, the Black Sea and the Baltic Sea, were surrounded by two or more States. It was that latter category of enclosed and semi-enclosed seas, and particularly the smaller ones bordered by several States, that presented the most acute problems; and those problems could not be solved by global norms only. About one-half of the countries participating in the Conference bordered on or were located in one or more enclosed or semi-enclosed seas. Many of those seas faced serious problems, among which were pollution and the management of living resources. Those problems could not be resolved by general rules applicable to open oceans; instead, a special legal régime should be recognized for those seas. It was to that end that article 2 of the draft had been proposed.

33. The Secretary-General of the Inter-Governmental Maritime Consultative Organization (IMCO) had stated at the 22nd plenary meeting of the Conference that a new and important feature of IMCO's work on marine pollution was the concept of the special areas established under the 1973 International Convention for the Prevention of Pollution from Ships as being particularly vulnerable to pollution and regulated by special provisions. He had also said that where necessary, additional provisions for such areas could also be formulated on a regional basis. Article 3 of the draft sought to establish, in the future convention on the law of the sea, additional power and jurisdiction for the coastal States of an enclosed or semi-enclosed sea to adopt preventive and restrictive measures under regional arrangements regarding the uses of those seas. One aspect of such restrictive measures should be directed at the preservation of the marine resources. The living resources of an enclosed or semi-enclosed sea were limited and vulnerable to over-exploitation and should therefore be managed and exploited solely by the coastal States or under the authorization of the coastal States concerned.

34. Owing to the special characteristics of enclosed and semi-enclosed seas, scientific research should not be conducted there unless specifically authorized by the coastal States concerned, as provided for in article 4 of the draft.

35. His delegation wished to emphasize that the concept of enclosed or semi-enclosed seas had been introduced and supported with a view to establishing special legal status for those seas in terms of empowering the coastal States to adopt, under regional arrangements, additional protective measures to safeguard their environmental, economic and social interests against abuses of the seas. There was a need for peace, cooperation and harmony among all nations in their activities relating to the ocean space, particularly with respect to enclosed or semi-enclosed seas, and his delegation hoped that the Conference would succeed in contributing to that end.

36. Mr. McLOUGHLIN (Fiji), introducing document A/CONF.62/C.2/L.69, said that it was intended to define the term "high seas". The existing definition in the 1958 Convention did not reflect the trend with respect to archipelagic States and waters and it should therefore be amended. The definition was intended to ensure that archipelagic waters would not be considered part of the high seas.

37. Mr. ABBADI (Deputy Secretary of the Committee) announced that Colombia, Guyana and Morocco had become sponsors of documents A/CONF.62/C.2/L.66, 42/Rev.1 and 16, respectively.

The meeting rose at 11.55 a.m.

44th meeting

Tuesday, 27 August 1974, at 10.50 a.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Introduction of draft proposals (*concluded*)

1. Mr. KAZEMI (Iran) said that, despite his two interventions on the question of the continental shelf, the trend to which his delegation subscribed had not been reflected in provision XIII of the formulation of main trends (Informal Working Paper No. 3/Rev.2) which had been prepared on that subject. Since the Chairman had ruled that all new proposals must be submitted to the Committee in writing, his delegation was constrained to submit the draft article in document A/CONF.62/C.2/L.84. It stipulated that the sovereign rights of the coastal State over its continental shelf were exclusive and that revenues derived from the exploitation of the natural resources of the continental shelf should not be subject to any revenue-sharing.

2. Although it was already too late to include the Iranian draft article in Informal Working Paper No. 3/Rev.2, his delegation hoped that a way could be found to include it in the final consolidated document the Committee intended to produce, since the draft article he had just submitted represented a main trend supported by many delegations, including Canada and Chile.

3. The CHAIRMAN explained that it would be difficult if not impossible to meet the request made by the representative of Iran, owing to the fact that the Committee had decided to limit the number of revisions of the informal working papers to two. The contemplated consolidated document would therefore contain the second revision of all informal working papers. The consolidated document should be considered as a tool designed simply to give an idea of what had been said and done at the current session of the Conference. Those proposals made by delegations after the second revision of the informal working papers would of course become part of the documentation of the Committee which could then be taken up again at any moment at the next session of the Conference. The summary records of the Committee's meetings would also reflect such proposals. Furthermore the enumeration of trends in the informal working papers was not exclusive and did not imply that there were no other trends.

4. Mr. WARIOBA (United Republic of Tanzania), introducing document A/CONF.62/C.2/L.82, said it would be incorrect to say he was speaking on behalf of all the sponsors, since they had had no time to consult on the introduction of those draft articles to the Committee. The views he would express, therefore, were mainly those of his own delegation.

5. The sponsors of that document had been pressed for time in preparing it and it should therefore be regarded as a provisional draft. Revisions would be made and issued in due course. Nevertheless the document was an embodiment of the basic views of its sponsors on the question of the economic zone.

6. Article 1 recognized the right of the coastal State to establish an exclusive economic zone beyond its territorial sea.

7. Article 2 provided for the sovereignty of the coastal State over the living and non-living resources of the zone and its sovereign rights for the purpose of regulation, control, exploration, exploitation, protection and preservation of such resources. No other State had any right to the resources of the exclusive economic zone, with the sole exception of the land-locked and other geographically disadvantaged States referred to in article 6.

8. Article 3 recognized the exclusive jurisdiction of the coastal State for the purposes of control, regulation and preservation of the marine environment, control, authorization and regulation of scientific research, and control and regulation of customs and fiscal matters related to economic activities in the zone.

9. Article 4 established the exclusive right of the coastal State to make and enforce regulations in a number of domains.

10. Articles 2, 3 and 4 had been conceived to give effect to the basic unity of the economic zone. As defined in the draft articles, the régime of the economic zone was intended to replace any fishery zones, the contiguous zone and the continental shelf.

11. Article 5, while recognizing the traditional freedoms of navigation, overflight and laying of submarine cables and pipelines, ensured that in the future they would be regulated freedoms.

12. Article 6 was the most important in the draft. Paragraph 1 acknowledged the right of developing land-locked and other geographically disadvantaged States to explore the living resources of the exclusive economic zone of neighbouring States. Paragraph 2 defined the scope of that right and paragraph 3 the modalities of its exercise.

13. The essence of article 8 was to define a method of delimitation between adjacent and opposite States. An amendment to that article had been inadvertently left out and would appear in a future revision of the document.

14. Article 9 stipulated that the activities of the coastal State in its economic zone had to be carried out exclusively for peaceful purposes.

15. Article 10 prohibited States from constructing, maintaining, deploying or operating any installations or devices, military or otherwise, in the exclusive economic zone of any other State without its express consent.

16. Article 11, which dealt with the situation of peoples not yet fully independent, was not complete: it would be revised, and another article dealing with areas under colonial domination which were not susceptible of becoming independent, such as rocks and islets, would be added later to preclude States with such possessions far from their main territory from benefiting from the provisions of the economic zone in respect of such rocks and islets.

17. Mr. ABDEL HAMID (Egypt), introducing the draft article on the economic and contiguous zone in document A/CONF.62/C.2/L.78, said that Honduras and Saudi Arabia had decided to join in sponsoring the draft. The intention of the draft was to maintain the practice under current international law which had proved its utility for many coastal States. The text of paragraphs (*a*) and (*b*) of the draft article was taken from article 24 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone.[1] The outer limits of the economic zone had not yet been established by the Conference, and the reference to those limits had therefore been left blank in the draft. He requested that the draft article should be included in the informal working paper on the economic zone and the contiguous zone.

18. Mr. KAZEMI (Iran) suggested that, since the draft article in document A/CONF.62/C.2/L.84 could not be included in Informal Working Paper No. 3/Rev.2, it should be included in the second revision of Informal Working Paper No. 4 which had not yet been issued. It could be inserted as Formula B of Provision XXXIII under item 6.7.3, Sovereign rights over natural resources, of Informal Working Paper No. 4/Rev.1.

19. The CHAIRMAN thanked the representative of Iran for his co-operation and said that the draft article could be included in the second revision of Informal Working Paper No. 4.

20. Mr. OXMAN (United States of America), introducing the draft article proposed by his delegation concerning the régime of the high seas in document A/CONF.62/C.2/L.79, said the purpose of the draft article was to seek a moderate solution to the question of how the régime of the high seas would be affected by the new convention being prepared by the Conference. The régime of the high seas would clearly, at least in certain areas, not continue to exist in its current form. The concept of the economic zone marked a fundamental change in the international law applicable to the high seas. His delegation could not, however, agree that the economic zone should be assimilated to an area that was territorial in character simply by virtue of the fact that the coastal State would exercise substantial rights in that economic zone. It had considered many alternative solutions and the draft article was not the solution it would have preferred, but that solution seemed, after consultation with many delegations, the most promising approach to the question. Unlike the other 1958 Conventions on the law of the sea, the Convention on the High Seas[2] stated in the preamble that it was codification of international law. Although that did not, of course, mean that it could not be changed, he felt that, as many of the matters regulated in that Convention were not of fundamental importance to the Conference, it would be appropriate to expedite the Conference's work by incorporating in the new convention the provisions of the Convention on the High Seas as modified by new provisions governing the high seas, the economic zone, the continental shelf, the protection of the marine environment, scientific research and the international sea-bed area. Matters such as piracy, criminal and civil jurisdiction on ships and the duties of other States could, he felt, continue to be regulated by the provisions of the Geneva Convention. There were other international conventions applicable to the high seas, and care should be taken in the wording used in the draft articles on the high seas. He hoped that the draft article in document A/CONF.62/C.2/L.79 would be considered in the spirit of neutrality in which it had been submitted.

21. Introducing the draft article on fisheries management in document A/CONF.62/C.2/L.80, he noted that paragraph 1 provided for a flexible approach to management arrangements recommending co-operation among States through fisheries management agreements or multilateral fisheries organizations; it also provided for recourse to the Food and Agriculture Organization of the United Nations if the States concerned could not establish a fisheries organization. The primary thrust

[1] United Nations, *Treaty Series*, vol. 516, p. 206.

[2] *Ibid.*, vol. 450, p. 82.

of the provision was to place responsibility for co-operation on the States concerned. Paragraph 2 dealt with the duty of States to conserve the living resources beyond the economic zone. He agreed with those who maintained that the conservation duty of the coastal State in the economic zone and of other States beyond the economic zone was the same and in that connexion he referred to the proposal on the economic zone submitted by his delegation in document A/CONF.62/C.2/L.47. Paragraph 3 dealt with certain provisions in areas within and beyond the economic zone with respect to anadromous species and highly migratory species. His delegation had already stated its views on the management of such species.

22. He requested that the formulation in paragraph 27 (*a*) of document A/CONF.62/C.2/L.47, which had been supported by several delegations, should be included in the informal working paper on the continental shelf.

23. The CHAIRMAN said that no further proposals could be included in the informal working paper on the continental shelf as the second revision had already been published.

24. Mr. SALLAH (Gambia) announced that his delegation would join in sponsoring document A/CONF.62/C.2/L.82.

25. Mr. BEESLEY (Canada), commenting on his delegation's working paper dealing with anadromous species (A/CONF.62/C.2/L.81), said that the paper did not contain any proposal as to the kind of régime which should be established for those species. Its purpose was to illustrate the peculiarities of the anadromous species which required special provisions in the future convention.

26. In submitting document A/CONF.62/C.2/L.83, his delegation was concerned with providing an exact definition of an international strait. The definition which had been worked out thus far left open the possibility that they might equally well be applied to canals. The Canadian definition therefore specified the natural character of international straits.

27. According to the Canadian definition, an international strait lay within the territorial sea of one or more States, since logically the question of a special régime for international straits would not even arise if such straits were situated within the high seas. It was also important to take into account when defining international straits the extent to which they had traditionally been used for international navigation, and a provision to that effect had been included in the Canadian definition.

28. Mr. ABBADI (Deputy Secretary of the Committee) announced that Swaziland had withdrawn its sponsorship of document A/CONF.62/C.2/L.82; Malaysia and Yemen had requested to be added to the list of sponsors of document A/CONF.62/C.2/L.16; and Honduras and Saudi Arabia wished to join the sponsors of document A/CONF.62/C.2/L.78.

The meeting rose at 11.35 a.m.

45th meeting

Wednesday, 28 August 1974, at 11 a.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Consideration of recent draft proposals

1. The CHAIRMAN invited delegations to comment on recent proposals and draft articles submitted to the Committee.

2. Mr. WISNOEMOERTI (Indonesia), in preliminary comments on document A/CONF.62/C.2/L.63, said that Indonesia was prepared to consider and discuss, with immediately adjacent neighbouring countries, the problem of traditional interests claimed by them in the archipelagic waters. Consultations to that effect had in fact already taken place between the Indonesian Government and the Governments of such neighbouring countries.

3. His delegation had difficulty with the first draft article, for the following reasons: first, because the provision was applicable to all areas which constituted archipelagic waters and the territorial sea, over which the archipelagic State had sovereignty; secondly, it placed the archipelagic State under the obligation to give special consideration to the interests and needs of its neighbours, without regard to whether those interests and needs were traditional, legitimate or reasonable; thirdly, it imposed an obligation on the archipelagic State to enter into an agreement with any neighbouring State at the request of the latter; fourthly, the draft article did not qualify which neighbouring country was entitled to accommodation by the archipelagic State. The omission of the element of adjacency in that connexion would create difficulties for the archipelagic State; finally, the elements of reciprocity and equality included in the draft article in order to accommodate the interests of neighbouring countries with respect to the living resources of the archipelagic waters and the territorial sea might create problems for the archipelagic State.

4. The second draft article needed clarification. For example, his delegation wondered what was meant by the words "sole benefit". It also wondered what types of ships had to be accorded the right of passage through the archipelagic waters outside the designated sea lanes.

5. His Government, in a spirit of good neighbourliness and regional co-operation, was prepared to continue consultations with the Governments of its neighbours, including Thailand, in order to seek a just solution to the problem.

6. Mr. NITTI (Italy), referring to proposals on the régime of islands, said that the 1958 Geneva Conventions had provided a simple and radical solution to the problem of the régime of waters, soil and subsoil of the sea adjacent to islands. Article 10 of the Convention on the Territorial Sea and the Contiguous Zone[1] and article 1 of the Convention on the Continental Shelf[2] laid down the principle that islands should be assimilated to other territories of the State. Furthermore, the first of those proposals included a definition broad enough to include all natural land extensions which remained uncovered at high tide.

7. With respect to the problem of the delimitation of the ocean space between States, no difference had been established by the Geneva Conventions regarding islands and the Conventions therefore applied to them. Islands should be treated like any other territory of the State, the equidistant line being, in principle, the equitable demarcation line.

8. In the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, some delegations had been in favour of a revision of the system adopted by the Geneva Conventions. Proposals had been advanced with a view to classifying islands into various categories

[1] United Nations, *Treaty Series*, vol. 516, p. 206.
[2] *Ibid.*, vol. 499, p. 312.