

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/C.2/L.33

Austria, Belgium, Bolivia, Botswana, Burundi, Byelorussian Soviet Socialist Republic, Czechoslovakia, Finland, Germany (Federal Republic of), Hungary, Laos, Lesotho, Luxembourg, Mali, Mongolia, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on the territorial sea

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

DOCUMENT A/CONF.62/C.2/L.33

Austria, Belgium, Bolivia, Botswana, Burundi, Byelorussian Soviet Socialist Republic, Czechoslovakia, Finland, Germany (Federal Republic of), Hungary, Laos, Lesotho, Luxembourg, Mali, Mongolia, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on the territorial sea

[Original: English]
[31 July 1974]

Explanatory note

The following draft articles on the territorial sea reflect the basic attitude of the sponsors concerning some questions relating to the territorial sea. Regarding the problem of delimitation of the boundary lines of the territorial seas in the case of opposite or adjacent coasts, the sponsors recognize the need for further elaboration of the rules laid down in the respective 1958 Geneva Conventions and are willing to listen in a spirit of compromise to any suggestion which may be made on the subject.

The proposal contained in document A/CONF.62/C.2/L.14 is considered a very valuable basis for discussion of this matter.

The problem of the semi-enclosed seas has not been referred to in the present draft articles; the sponsors nevertheless wish to indicate their willingness to consider any formula relating thereto.

Article . . .

1. The sovereignty of a State extends, beyond its land territory and internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article . . .

1. Each State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with articles . . . of this Convention.

2. The right referred to in paragraph 1 shall not be exercised by a State in such a manner as to cut off from the high seas the territorial sea of another State or any part thereof.

Article . . .

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article . . .

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article . . .

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article . . . has the effect of enclosing as internal waters areas which have previously been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles . . . , shall exist in those waters.

Article . . .

1. This article relates only to bays, the coasts of which belong to a single State.

2. For the purpose of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water areas of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed . . . miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds . . . miles, a straight baseline of . . . miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provision shall not apply to so-called "historic" bays or in any case where the straight baseline system provided for in article . . . is applied.

Article . . .

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form part of the har-

bour system and which are above water at high tide shall be regarded as forming part of the coast.

Article . . .

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State

must clearly demarcate such roadsteads and indicate them on charts, together with their boundaries, to which due publicity must be given.

Article . . .

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

DOCUMENT A/CONF.62/C.2/L.34

Turkey: draft article on delineation between adjacent and opposite States

[Original: English]

[1 August 1974]

Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the respective economic zones shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant factors including, *inter alia*, the geomorphological and geological structure of the sea-bed area involved, and special circumstances such as the general configuration of the respective coasts, and the existence of islands, islets or rocks within the area.

2. The States shall make use of any of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them, in case any of the parties refuses to enter into or continue negotiations or in order to resolve differences which may arise during such negotiations.

3. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimitation based on agreement.

DOCUMENT A/CONF.62/C.2/L.35

Haiti and Jamaica: draft articles on rights of developing geographically disadvantaged States within the economic zone or patrimonial sea

[Original: English]

[1 August 1974]

Article 1

The régime applicable to any economic zone or patrimonial sea provided for in article . . . of this Convention shall be subject to the rights of developing geographically disadvantaged States as contained in articles 2, 3, 4 and 5 below.

Article 2

1. In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

2. The States of the region shall co-operate to the fullest extent in order to secure the enjoyment of this right.

Article 3

Except as provided in article 4, nothing in articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.

Article 4

In the application of articles 1 and 2 to the Associated States, self-governing territories and territories under foreign domina-

tion, the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

Article 5

For the purposes of these articles:

1. "Geographically disadvantaged States" means developing States which

(a) Are land-locked; or

(b) For geographical, biological or ecological reasons:

(i) Derive no substantial economic advantage from establishing an economic zone or patrimonial sea; or

(ii) Are adversely affected in their economies by the establishment of economic zones or patrimonial seas by other States; or

(iii) Have short coastlines and cannot extend uniformly their national jurisdiction.

2. "Nationals" include enterprises substantially owned and effectively controlled by nationals.