

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.43

Ireland: draft article on delimitation of areas of continental shelf between neighbouring States

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)*

VI. RELATIONS WITH OTHER TREATIES

Article 23

1. The provisions of these articles

- (i) Shall not prejudice the maintenance of any existing special fisheries régime existing among States members of a customs union;

- (ii) Shall not preclude the establishment of a special fisheries régime among the States fishing for a particular region for that region or among States members of a customs union.

2. Where such a special régime exists, vessels of participating States fishing in the zone of another participating State shall be treated on the same footing as vessels of the latter for the purpose of article 8, paragraph 1.

DOCUMENT A/CONF.62/C.2/L.41

Ireland: draft article on anadromous species

[Original: English]
[5 August 1974]

The right of exploitation of stocks of anadromous species shall be exercised only:

- (i) Within waters under the jurisdiction of the State of origin,
- (ii) Within waters under the jurisdiction of other coastal States, subject to such conditions and regulations as shall be agreed between such coastal State and the State of origin, taking into account the special role of the State of origin in the conservation of the species.

Explanatory note

Anadromous fish, such as salmon, are completely dependent on fresh water rivers for their existence. Only in rivers that are unpolluted and in which suitable stretches of gravel and water flow conditions exist can the spawning and hatching-out take place. The tiny fish after hatching-out may spend up to as many as four years in the river systems before migrating to the sea. These fish when fully grown in the sea have an irresistible urge to return to the rivers in which they themselves were spawned and wherein the cycle is repeated. If, then, the stock is to survive, positive steps must be taken to ensure that works carried out on the rivers, for irrigation, power development or

other purposes, do not impede the migration of the parent fish upstream or that of the young fish downstream, and that the river water remains unpolluted. This, in the majority of cases, entails stringent restrictions on other uses of the waters and the expenditure of large sums of money by the State and by industry, as well as a sacrifice in refraining from using the available water supply otherwise. If the sustainable yield of the stocks of salmon is to be maintained at the optimum level, captures on the high seas and within the coastal waters of States other than the State of origin should at the least be severely restricted, otherwise a State of origin cannot be expected to spend money and make sacrifices to ensure the survival of the species. Recognition of an economic zone wherein coastal States would have extensive jurisdiction over the living resources within the zone, including anadromous fish moving through the zone, intensifies the problem for the States of origin of anadromous species. Accordingly it is submitted that if a convention extends the fisheries jurisdiction of the coastal State, it should at the same time oblige such coastal States to enter into arrangements with the State of origin of anadromous fish which will ensure their conservation and accord due recognition of the expense and sacrifices which must be made by the State of origin to this end.

DOCUMENT A/CONF.62/C.2/L.42/Rev.1

Algeria, Argentina, Bangladesh, Burma, Brazil, Chile, Colombia, Cuba, Cyprus, Ecuador, El Salvador, Ghana, Guatemala, Guinea, Guyana, Haiti, India, Indonesia, Iran, Jamaica, Kenya, Libyan Arab Republic, Mauritania, Mauritius, Mexico, Morocco, Nigeria, Panama, Peru, Philippines, Senegal, Somalia, Trinidad and Tobago, United Republic of Cameroon, Uruguay, Venezuela and Yugoslavia: revised draft article on the continental shelf

[Original: English and Spanish]
[13 August 1974]

No State shall be entitled to construct, maintain, deploy or operate on or over the continental shelf of another State any military installations or devices or any other installations for whatever purposes without the consent of the coastal State.

DOCUMENT A/CONF.62/C.2/L.43

Ireland: draft article on delimitation of areas of continental shelf between neighbouring States

[Original: English]
[6 August 1974]

1. Where the coasts of two or more States are opposite or adjacent to each other, the areas of the continental margin/shelf appertaining to each State shall be determined by agreement between them in accordance with equitable principles.

2. In the absence of special circumstances and in so far as it is not inconsistent with equitable principles, the boundary agreed shall be on the basis of a median line every point of which is equidistant from the nearest point on the low-water

lines of the coasts of the States concerned. In determining a median line for the purposes of this article account may be taken of an island only if it is inhabited and if

- (i) It is situated less than the breadth of the territorial sea from the low water line of the coast; or
- (ii) It contains at least one tenth of the land area and population of the State concerned.

3. Pending an agreement for which provision is made in the preceding paragraphs, no State is entitled to carry on exploration or exploitation activities in any areas which are claimed *bona fide* by any other State except with the express consent of that State, provided such a claim is not inconsistent with the principles laid down in this article.

4. In delimiting the boundaries of the areas appertaining to States under this article, any lines should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on land.

Explanatory note

The provisions of this draft article are intended to be without prejudice to the general question of the extent of coastal

State rights over adjoining areas of the continental shelf or the continental margin. It is designed to provide a generally acceptable codification of the law on the delimitation of such areas between neighbouring States. In formulating the draft, special regard has been had to the principles laid down in the North Sea Continental Shelf case²⁰ where the International Court of Justice held that the rights of a coastal State over the continental shelf arose by virtue of its sovereignty over the land and that the primary rule of international law was that delimitation should be effected by agreement in accordance with equitable principles. Regard has also been had to the frequent use of the equidistance criterion as a starting-point in negotiations between States and the special problems that have frequently arisen concerning islands. It is generally agreed that off-shore islands should not be used as the base-point for measuring an equidistance boundary line in all circumstances. The draft article proposes an objective criterion to determine what islands should generally be taken into account in delimiting areas of continental margin (or shelf) on the basis of equidistance. It also seeks to ensure that no exploration or exploitation activities take place in areas, jurisdiction over which is the subject-matter of *bona fide* dispute between neighbouring States.

²⁰ *North Sea Continental Shelf, Judgment, I.C.J. Reports, 1969, p.3.*

DOCUMENT A/CONF.62/C.2/L.44

Algeria, Bahrain, Iraq, Kuwait, Libyan Arab Republic, Qatar, Saudi Arabia, Syrian Arab Republic, Tunisia and United Arab Emirates: draft article on definition of straits used for international navigation

[Original: English]
[7 August 1974]

In the context of this Convention, the term "straits used for international navigation" means any strait connecting two parts of the high seas and customarily used for international navigation.

DOCUMENT A/CONF.62/C.2/L.45/Rev.1

Botswana, Lesotho, Uganda and Upper Volta: amendments to document A/AC.138/93.²¹

[Original: English]
[22 August 1974]

1. Article 1, paragraph (d)
Subparagraph (i) should read as follows:
(i) Any civil aircraft, railway stock, seagoing and river vessels and road vehicles".
2. Article XX
Paragraph 3 should be deleted.

²¹ *Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 and corrigenda 1 and 3, vol. II, annex VI, sect. 5.*

DOCUMENT A/CONF.62/C.2/L.46

Japan: draft article on anadromous species

[Original: English]
[8 August 1974]

1. The conservation and management of anadromous species shall be regulated through arrangements among the States participating in the exploitation of such species and, where appropriate, through regional intergovernmental organizations established for this purpose.
2. The special interest of the coastal State, in whose fresh or estuarine waters anadromous species spawn, shall be taken into account in the arrangements for regulating such species.