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Comments by Inter-governmental Organizations on Articles regarding Fishing embodied in the Provisional Articles concerning the Regime of the High Seas adopted by the International Law Commission at its Seventh Session.

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Comments by inter-governmental organizations on articles regarding fishing embodied in the provisional articles concerning the régime of the high seas adopted by the International Law Commission at its seventh session in 1955¹

[Original text: English]
[13 March 1956]

LETTER DATED 13 OCTOBER 1955 FROM THE EXECUTIVE SECRETARY OF THE INTERNATIONAL COMMISSION FOR THE NORTHWEST ATLANTIC FISHERIES

In your letter of 24th August 1955 (LEG 292/8/01) I am invited to submit possible observations to articles 24-33 of the report of the International Law Commission covering the work of its seventh session held in Geneva from 2nd May to 8th July 1955. In this connexion I beg to submit the following comments:

Article 24 "concerning conservation of the living resources of the high seas". Here, as elsewhere in the articles, the term "conservation" is used in defining the aim for the regulations that could be introduced. However, there are certain reasons to consider that conservation in itself is no longer the sole aim for the regulations introduced as to fisheries over the world. We have passed that period when solely conservation of the stocks was to be considered, and we have entered upon a period where we, through our regulations, are trying also to develop useful fish stocks over their present or, say, natural strength. For instance, when we introduce regulations for the protection of the spawning places, for spawning individuals of a certain species, we are often aiming at giving that special species exceptionally good conditions for thriving compared to that of other, less valuable, species. This means that we are not just conserving the stock of this useful species, but are trying to develop it and to increase it. Other regulations of this kind exist and it can be visualized that several more will be introduced in the future when we shall have to increase the food supply from the sea very considerably.

When we, in future years, are faced with the

¹ Official Records of the General Assembly, Tenth Session, Supplement No. 9, pp. 9-15.

introduction of such regulations, there might arise difficulties through the constant use of just the word "conservation" in the articles. It might possibly be objected by some country that the regulations which we, for the development of the fishery, are trying to introduce are not covered by the international law as they do not only deal with conservation of resources but with their development above the natural, present stage. Thus, the possibility exists that the use of the term "conservation" in the law might well act as a barrier to the proper regulations for the necessary development of the fisheries. I should submit that it be considered to add, when using this term, an explanation that would make it possible for the law to cover also any regulations aiming at further development of stocks.

In the comment to article 24 "sedentary fisheries" is used. I admit that I am not quite aware of what exactly is understood by this term, and others might be in the same position. I understand it to be some kind of fishery by means of fixed gears or from fixed fishing stations, or even from anchored vessels. (The paper referred to in the footnote is not available to me.) From the results of the experimental work carried out in many places during recent years, it is obvious that a kind of sedentary fishery will be developed in the near future based on the fact that fish can be attracted by various devices (electricity, light) to a certain fixed gear. Such a fishery could very well be regarded as covered by the term "sedentary fisheries". This kind of fishery is already being carried out on a commercial scale in fresh water, and experiments on a commercial scale are being carried out also in the open sea. With the development during recent years of factory fishing vessels and floating fishing plants, it might well be imagined that a fishery along these lines will be a common feature in the not too distant future. I would think that some explanation of the term "sedentary fisheries" should be introduced in order that it may be clear whether or not fishery of the above-described kind is included in this term.

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Supplementary report by J. P. A. François, Special Rapporteur on the right of international organizations to sail vessels under their flags

[Original text: English]
[8 May 1956]

1. In the course of the International Law Commission's seventh session, at the 320th meeting on 27 June 1955, the Special Rapporteur, after the adoption of article 4 of the Commission's provisional articles concerning the régime of the high seas, read to the Commission a letter from Mr. Constantin A. Stavropoulos, Legal Counsel of the United Nations, relating to the flag and registry of ten fishing vessels owned by the United Nations (A/CN.4/SR.320, para. 68). The vessels had been recently

built in Hong Kong for the United Nations Korean Reconstruction Agency (UNKRA), taken to Pusan, Korea, and turned over to Korean nationals. They had been navigated from Hong Kong to Pusan under the United Nations flag and registry, British or Korean registry being unavailable by reason of the vessels' ownership, while it was deemed inappropriate to register the vessels in, for instance, Liberia, where registry could easily have been obtained, but with which country the vessels had no link whatsoever. In this connexion, and in view of the possible occurrence of future cases of this kind, Mr. Stavropoulos thought it desirable that the Com-