

United Nations Conference on the Law of the Sea

Geneva, Switzerland
24 February to 27 April 1958

Document:

A/CONF.13/L.28

Report of the First Committee

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume II (Plenary Meetings)*

DOCUMENT A/CONF.13/L.28/Rev.1¹

Report of the First Committee

OFFICERS OF THE COMMITTEE

1. At the first meeting of the Committee, on 26 February 1958, Mr. K. H. Bailey (Australia) was elected as Chairman; at the 2nd meeting on 28 February, the Committee elected as Vice-Chairman Mr. Sergio Guitierrez Olivos (Chile) and as Rapporteur Mr. Vladimir M. Koretsky (Ukrainian Soviet Socialist Republic).

TERMS OF REFERENCE OF THE COMMITTEE

2. The rules of procedure adopted by the Conference at its first plenary meeting on 24 February 1958 established in rule 47 that the First Committee should be a Main Committee of the Conference and that to it should be allocated those articles concerning the law of the sea, contained in the report of the International Law Commission covering the work of its eighth session (A/3159), which dealt with the territorial sea and contiguous zone. These articles were articles 1 to 25 (territorial sea) and 66 (contiguous zone).

ORGANIZATION OF THE WORK OF THE COMMITTEE

3. The First Committee considered the recommendations of the General Committee (A/CONF.13/L.2) adopted by the Conference and decided, at its 3rd meeting on 3 March, to begin its work by a general debate on the articles referred to it. A proposal by Ecuador to postpone the study of articles 1, 2, 3 and 66 until 9 April was discussed, but the Committee deferred any decision on this proposal until the end of the general debate. At its 3rd meeting, the Committee also had before it a proposal by Panama that a sub-committee be established to study the juridical régime of historic bays; at the Chairman's suggestion it was agreed that this proposal should be held over temporarily and brought before the Committee at an early convenient date (see paragraph 50 below).

4. The proposal by Ecuador, originally made at the 3rd meeting, and amended by the representative of Mexico, to change the date from Wednesday, 9 April, to Monday, 31 March, was adopted at the 23rd meeting by 46 votes to 16, with 8 abstentions. A proposal by Mexico (A/CONF.13/C.1/L.1/Rev.1), requesting the Secretariat to draw up a summary table setting out the positions of States with regard to the breadth and juridical status of the zones of the sea contiguous to their coasts was adopted at the 14th meeting by 39 votes to none, with 26 abstentions. In accordance with this request, the Secretariat prepared first a draft synoptical table (A/CONF.13/C.1/L.11) and subsequently a synoptical table (A/CONF.13/C.1/L.11/Rev.1 and Corr.1 and 2).

5. For the convenience of the plenary Conference, the First Committee submits its report in two parts. In the light of the priority to be given by the Conference to the consideration of articles 3 and 66 on the breadth of the territorial sea and on the contiguous zone, part I of the report will deal with these two subjects, while part II will report on the other articles referred to the Committee.

¹ The draft report of the First Committee was circulated in two parts as documents A/CONF.13/C.1/L.168 and A/CONF.13/C.1/L.168/Add.1; these two parts were submitted to the Conference, after approval by the Committee, under cover of documents A/CONF.13/L.28 and A/CONF.13/L.28/Add.1. The present text incorporates the modifications made by the Committee at the time the draft report was approved (64th and 66th meetings).

Part I of the report was adopted at the 64th meeting on 25 April 1958, after the Committee had considered the draft report dealing with that part (A/CONF.13/C.1/L.168).

Part I: articles 3 and 66

ARTICLE 3: BREADTH OF THE TERRITORIAL SEA

6. In the report of the International Law Commission covering the work of its eighth session (A/3159), the Commission stated, under the heading of its draft article 3, that it considered that international law did not permit an extension of the territorial sea beyond twelve miles, but that it had taken no decision as to the breadth of the territorial sea up to a limit of twelve miles. The Commission expressed the opinion that the question should be decided by an international conference of plenipotentiaries.

7. In accordance with the resolution referred to in paragraph 4 above, the Committee proceeded, on 31 March 1958, to the consideration jointly of article 1, 2, 3 and 66. These were debated at the 31st, 35th, 36th, 37th, 39th, 40th, 45th, 49th, 50th and 53rd to 55th meetings.

8. Thirteen basic proposals for an article 3 were placed before the Committee.

9. The proposals of Sweden (A/CONF.13/C.1/L.4), Ceylon (A/CONF.13/C.1/L.118 and L.149) and Italy (A/CONF.13/C.1/L.137) would have authorized the coastal State to fix the breadth of its territorial sea up to six miles.

10. Canada introduced a proposal (A/CONF.13/C.1/L.77/Rev.1) for a three-mile territorial sea, the coastal State, however, to have the same rights in respects of fishing and the exploitation of the living resources of the sea in the contiguous zone as in its territorial sea. A proposal by the United States of America was stated in similar terms (A/CONF.13/C.1/L.140).

11. India and Mexico put forward a joint proposal (A/CONF.13/C.1/L.79) entitling States to fix the breadth of their territorial sea up to twelve miles, as did also Yugoslavia (A/CONF.13/C.1/L.135). The Union of Soviet Socialist Republics (A/CONF.13/C.1/L.80) proposed that each State should determine the breadth of its territorial sea in accordance with established practice within the limits, as a rule, of three to twelve miles, having regard to historical and geographical conditions, economic interests and the interests of the security of the coastal State and of international navigation. A Colombian proposal (A/CONF.13/C.1/L.82) was stated in terms of the sovereignty of a State extending to a belt of sea twelve miles broad adjacent to its coast.

12. According to the proposal of Peru (A/CONF.13/C.1/L.133 and Add.1 and 2), each State was competent to fix its territorial sea within reasonable limits, taking into account geographical, geological and biological factors, as well as the economic needs of its population, and its security and defence. The proposal also referred to the fixing of the breadth of the territorial sea by regional agreement and to a system of reporting on the breadth adopted to periodic sessions of the Conference on the Law of the Sea.

13. A United Kingdom proposal (A/CONF.13/C.1/L.134) stated that the limit should not extend beyond six miles, with the proviso that extension to this limit should not affect existing rights of passage for aircraft and vessels, including warships, outside three miles.

14. Greece proposed a territorial sea extending to three miles (A/CONF.13/C.1/L.136).

15. Subsequently Canada together with India and Mexico replaced their two initial proposals by a joint text (A/CONF.13/C.1/L.77/Rev.2). This would have entitled a State to fix the breadth of its territorial sea up to a limit of six miles, provided that a breadth of more than six but not exceeding twelve miles would have been recognized if declared prior to 24 February 1958, the opening date of the Conference. The joint proposal established that, where the breadth of the territorial sea was less than twelve miles, the coastal State should have a fishing zone contiguous to its territorial sea extending to a limit of twelve miles, in which it would have the same fishing rights as in its territorial sea. At the 53rd meeting, however, the sponsors withdrew this draft. Portugal and Thailand therefore withdrew their proposed amendments thereto (A/CONF.13/C.1/L.141/Rev.1 and L.160 respectively), the former being adapted and then withdrawn (see 55th meeting). India and Mexico reintroduced their original proposal (A/CONF.13/C.1/L.79), while Canada submitted a revised proposal (A/CONF.13/C.1/L.77/Rev.3), entitling a State to fix the breadth of its territorial sea up to six nautical miles, with provision for a contiguous fishing zone extending to a limit of twelve nautical miles from the baseline, in which it would have the same rights in respect of fishing and the exploitation of the living resources of the sea as in its territorial sea.

16. The United States of America introduced a proposal (revised, after discussion, and submitted as document A/CONF.13/C.1/L.159/Rev.2) by which the maximum breadth of the territorial sea of any State should be six miles, the coastal State to have, in a zone of up to twelve miles from the applicable baseline, the same rights in respect of fishing and the exploitation of the living resources of the sea as in its territorial sea. The proposal contained the proviso that these rights should be subject to the right of the vessels of any State whose vessels had fished regularly in that portion of the zone having a continuous baseline and located in the same major body of water for the period of five years immediately preceding the signature of the convention, to fish in the outer six miles of that portion of the zone, under obligation to observe therein such conservation regulations as were consistent with the rules on fisheries adopted by the Conference and other rules of international law. Disputes were to be subject to arbitration in the absence of another method of peaceful solution being agreed on between the parties. The provisions concerning the fishing rights would be subject to existing or future bilateral or multilateral arrangements.

17. At the 55th meeting, the representative of Ceylon withdrew the proposals of his delegation (A/CONF.13/C.1/L.118 and L.149) in favour of the Indian-Mexican proposal (A/CONF.13/C.1/L.79). The representative of Yugoslavia likewise withdrew his proposal (A/CONF.13/C.1/L.135). At the 56th meeting, the representative of Greece withdrew the Greek proposal (A/CONF.13/C.1/L.136) and the representative of Sweden withdrew his proposal (A/CONF.13/C.1/L.4) in favour of the identical Italian proposal (A/CONF.13/C.1/L.137); the representative of Peru also withdrew his proposal (A/CONF.13/C.1/L.133 and Add.1 and 2). The first of the proposals by the United States of America (A/CONF.13/C.1/L.140) was also withdrawn.

18. The Committee proceeded to vote on article 3 at its 56th and 57th meetings. In accordance with rule 41 of the rules of procedure, it voted on the proposals in the order in which they had been submitted.

19. The Committee decided to vote on the two paragraphs of the Canadian proposal (A/CONF.13/C.1/L.77/Rev.3) separately. The first paragraph, proposing a six-mile

territorial sea, was rejected by 48 votes to 11, with 23 abstentions; the second paragraph was adopted by 37 votes to 35, with 9 abstentions.

20. The joint proposal by India and Mexico (A/CONF.13/C.1/L.79) received 35 votes in favour and 35 against, with 12 abstentions and was, therefore, under the terms of rule 45 on equally divided votes, regarded as rejected. The USSR proposal (A/CONF.13/C.1/L.80) was rejected by 44 votes to 29, with 9 abstentions.

21. The representative of the United Kingdom withdrew his proposal (A/CONF.13/C.1/L.134). The representative of Italy withdrew the Italian proposal (A/CONF.13/C.1/L.137) in favour of that submitted by the United States (A/CONF.13/C.1/L.159/Rev.2), and the representative of Sweden therefore reintroduced his own proposal (A/CONF.13/C.1/L.4), which he had previously withdrawn in favour of the Italian proposal.

22. At the 57th meeting, the Colombian proposal (A/CONF.13/C.1/L.82 and Corr.1) as orally amended and (without objection) divided for voting purposes at the 55th meeting—was rejected by 42 votes to 33, with 7 abstentions. The Swedish proposal (A/CONF.13/C.1/L.4) was likewise rejected, by 49 votes to 16, with 4 abstentions. The United States proposal was then rejected by 38 votes to 36, with 9 abstentions. A motion to reconsider the Indian-Mexican proposal (A/CONF.13/C.1/L.79) failed, by 39 votes to 36, with 7 abstentions.

23. The amendment put forward by Saudi Arabia (A/CONF.13/C.1/L.152) to any proposal on the breadth of the territorial sea, to make an exception in the case of historic waters was automatically dropped.

24. Thus, no proposal specifying the breadth of the territorial sea succeeded in obtaining a majority of the votes in the Committee.

25. The First Committee therefore reports to the plenary Conference only the adoption of the following text for a contiguous fishing zone, as an article 3:

Article 3

“A State has a fishing zone contiguous to its territorial sea, extending to a limit twelve nautical miles from the baseline from which the breadth of its territorial sea is measured, in which it has the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea.”

ARTICLE 66 : CONTIGUOUS ZONE

26. The Committee voted on amendments to article 66 at its 58th meeting. A Peruvian proposal for a substitute text (A/CONF.13/C.1/L.139) was withdrawn. A Colombian proposal (A/CONF.13/C.1/L.82 and Corr.1) for a zone extending for twelve miles from the outer limit of the territorial sea was rejected by 49 votes to 1, with 27 abstentions. A Mexican proposal (A/CONF.13/C.1/L.141/Rev.1) had been eliminated by the action of the Committee on the Canadian proposal for a contiguous fishing zone (see para. 19 above) and this was also the case with a similar provision in the proposal of Yugoslavia (A/CONF.13/C.1/L.54). The representative of Iceland withdrew his proposal relating to fisheries (A/CONF.13/C.1/L.131) in favour of action in the Third Committee. The representative of Italy withdrew his amendment (A/CONF.13/C.1/L.138) in favour of a revised text of paragraph 1 proposed by Poland, which was then adopted by 33 votes to 27, with 15 abstentions. An amendment by Ceylon (A/CONF.13/C.1/L.55) to include a reference to immigration was adopted by 37 votes to 15, with 20 abstentions. The Polish text having included a reference to security, it was unnecessary to vote upon that provision in the amendments of Yugoslavia (A/CONF.13/C.1/L.54) and of the Republic of Korea (A/CONF.13/C.1/L.84),

while consideration of the amendments of the Philippines (A/CONF.13/C.1/L.13) was made unnecessary by the proposals of Poland and Ceylon. A new paragraph proposed by Yugoslavia, concerning the delimitation of the zone between opposite or adjacent States, was next adopted by 52 votes to 3, with 19 abstentions.

27. Article 66, as thus amended, was adopted by 50 votes to 18, with 8 abstentions.

28. The First Committee accordingly reports its adoption of the following text :

“ Article 66

“ 1. In a zone of the high seas contiguous to its territorial sea, the coastal State may take the measures necessary to prevent and punish infringements of its customs, fiscal, immigration or sanitary regulations, and violations of its security.

“ 2. This contiguous zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured.

“ 3. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its contiguous zone beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured.”

Part II: articles 1 and 2, and 4 to 25 inclusive

29. At its 66th meeting, the Committee adopted as part II of its report the draft presented by the Rapporteur in document A/CONF.13/C.1/L.168/Add.1. The texts of the articles and of the draft resolution adopted by the Committee appear in the annex to the present report.

ARTICLES 1 AND 2

30. In accordance with the decision of the Committee at its 23rd meeting (see para. 4 above) to postpone consideration of articles 1, 2, 3 and 66 and to consider those articles jointly, articles 1 and 2 were considered during the general discussion on the four articles. Reference to the discussions of the Committee in relation to articles 3 and 66 has already been made in part I of this report.

31. At the time of voting at the 58th meeting, five proposals relating to article 1 remained before the Committee.¹ The proposal of the Netherlands (A/CONF.13/C.1/L.83) was rejected by 49 votes to 6, with 18 abstentions; the proposal of the United Kingdom (A/CONF.13/C.1/L.83) was rejected by 49 votes to 6, with 18 abstentions; the proposal of the United Kingdom (A/CONF.13/C.1/L.134) for a new text of this article was adopted by 61 votes to 1, with 8 abstentions.

32. As a result of the adoption of this new text, Yugoslavia withdrew its amendment (A/CONF.13/C.1/L.57). The Chairman stated that it was unnecessary to proceed with the amendment of Turkey (A/CONF.13/C.1/L.145) and that the International Law Commission text of article 1 should be considered as having been entirely replaced by the United Kingdom text just adopted.

33. In relation to article 2, at the time of voting, at the 59th meeting, all the amendments had been withdrawn;²

¹ The proposals by Colombia (A/CONF.13/C.1/L.82) and Denmark (A/CONF.13/C.1/L.81) had been withdrawn in favour of the United Kingdom proposal (A/CONF.13/C.1/L.134): the Greek proposal (A/CONF.13/C.1/L.63) and that of Peru (A/CONF.13/C.1/L.139) had also been withdrawn.

² France, Denmark, Colombia and Netherlands (A/CONF.13/C.1/L.6, L.81, L.82 and Corr.1, para. 1, and L.83).

the International Law Commission text of article 2 was therefore adopted.

ARTICLE 4

34. This article was considered by the Committee at its 52nd meeting. Eleven amendments were before the Committee.³ It referred this article to its drafting committee, with the suggestion that that committee consult also with technical experts on the question of the definition of the low-water line. The text as recommended by the drafting committee (A/CONF.13/C.1/L.167) was adopted by the Committee at its 65th meeting.

ARTICLE 5

35. Eighteen States originally submitted amendments to article 5. In view of the number of proposals, the Committee agreed, at the 43rd meeting, on the proposal of the Chairman, that a working party composed of the sponsors, together with Sweden, which had declared its intention of submitting amendments to the article, should be entrusted with the task of reducing the number of proposals.

36. The Committee considered article 5 at its 48th, 51st and 52nd meetings.

37. At the first of these meetings, the United Kingdom introduced a revised version of its original proposal (A/CONF.13/C.1/L.62/Corr.1), in which account had been taken of the views of other delegations. The Federal Republic of Germany, Greece, Italy and Japan supported the United Kingdom proposal, but jointly proposed an additional paragraph (A/CONF.13/C.1/L.157) for adoption either as an amendment to the International Law Commission's text or to the United Kingdom text.

38. At the 51st meeting, Sweden proposed two oral sub-amendments to the United Kingdom proposal, which were accepted by the sponsor; the United Kingdom also accepted oral sub-amendments by India and Mexico.

39. The Committee voted on article 5 at its 52nd meeting. The following proposals remained to be voted on: Yugoslavia (A/CONF.13/C.1/L.58); United Kingdom (A/CONF.13/C.1/L.62/Corr.1), replacing the text of the International Law Commission in its entirety; Netherlands (A/CONF.13/C.1/L.67); United States of America (A/CONF.13/C.1/L.86); Norway (A/CONF.13/C.1/L.97); Mexico (A/CONF.13/C.1/L.99); Chile (A/CONF.13/C.1/L.100); Portugal (A/CONF.13/C.1/L.101); Iceland (A/CONF.13/C.1/L.142); Federal Republic of Germany, Greece, Italy and Japan (A/CONF.13/C.1/L.157).

40. Those amendments referring both to the International Law Commission's text and to the revised United Kingdom proposal were put to the vote first, with the following results :

The Chilean proposal was rejected by 29 votes to 21, with 6 abstentions.

The four-power proposal was rejected by 30 votes to 13, with 12 abstentions.

The Mexican proposal was rejected by 26 votes to 20, with 10 abstentions.

The Netherlands proposal was rejected by 32 votes to 11, with 14 abstentions.

The Yugoslav proposal was rejected by 34 votes to 8, with 10 abstentions.

The alternative proposal of Yugoslavia was rejected by 33 votes to 11, with 13 abstentions.

The United States proposal was adopted by 24 votes to 14, with 23 abstentions.

³ A/CONF.13/C.1/L.6, L.58, L.62, L.63/Corr.1, L.81, L.85, L.87, L.89, L.90, L.94, L.143.

The Portuguese proposal (amended orally in the light of decisions already taken) was adopted by 33 votes to 16, with 10 abstentions.

41. The revised United Kingdom proposal (A/CONF.13/L.62/Corr.1) was then put to the vote, paragraph by paragraph, with the following results:

Paragraph 1

The words "as a whole" were adopted by 29 votes to 24, with 10 abstentions.

The whole of paragraph 1 was adopted by 47 votes to 5, with 12 abstentions.

Paragraph 2

The first sentence was adopted by 54 votes to 1, with 8 abstentions.

The second sentence, amended by Sweden, was adopted by 31 votes to 23, with 12 abstentions.

Paragraph 3

Withdrawn.

Former paragraph 4 (amended by Mexico)

This paragraph was adopted by 43 votes to 12, with 11 abstentions.

Former paragraph 5

This paragraph was adopted by 62 votes to 0, with 2 abstentions.

Former paragraph 6 (amended by India)

This paragraph was adopted by 44 votes to 15, with 8 abstentions.

42. The Committee then rejected, by 27 votes to 18, with 20 abstentions, proposals by Norway and Iceland (A/CONF.13/C.1/L.97 and L.142) to delete the last sentence of paragraph 1 of the International Law Commission's text which had formed paragraph 3 of the United Kingdom text and had been withdrawn by that delegation. The Committee then adopted, by 35 votes to 13, with 18 abstentions, the amendment by Mexico to that text (A/CONF.13/C.1/L.99, point 4).

43. The United Kingdom text, as amended, was adopted by 44 votes to 9, with 13 abstentions.

44. Adjustments in the text were then made by the Committee, at its 65th meeting, on the report of the drafting committee (A/CONF.13/C.1/L.167).

NEW ARTICLE 5 A

45. The Committee had before it at its 52nd meeting a number of similar proposals¹ for adding to article 4 the following provision: "Waters within the baseline of the territorial sea are considered as internal waters". This proposal was adopted by the Committee by 60 votes to 1, with 8 abstentions. As regards a proposal by the representative of Turkey that the text of the new paragraph should contain a reference to internal seas, the Committee took note that this inclusion was unnecessary, there being unanimous agreement that internal seas were considered to be internal waters.

46. The new paragraph was referred to the drafting committee together with article 4. The drafting committee

¹ A/CONF.13/C.1/L.58, L.63/Corr.1, L.85, L.94. The Committee had also had the same text referred to it by the Second Committee (A/CONF.13/C.1/L.143).

reported favourably on the Yugoslav proposal (A/CONF.13/C.1/L.58) to place this provision after article 5, rather than in article 4, and proposed to include in the new article the related provision already adopted by the Committee as paragraph 6 of article 5 on straight baselines. The text as recommended by the drafting committee was adopted by the Committee at its 65th meeting.

ARTICLE 6

47. The only proposal concerning this article was submitted by Spain (A/CONF.13/C.1/L.90) and was to the effect that it should be combined with article 4. The matter was referred to the drafting committee, which reported (A/CONF.13/C.1/L.167) in favour of the existing arrangement. The text of article 6 as drafted by the International Law Commission was accordingly adopted by the Committee at its 65th meeting.

ARTICLE 7

48. The Committee had before it at its 47th meeting nine amendments relating to article 7.² A new paragraph 1 proposed by the United Kingdom (A/CONF.13/C.1/L.62) was adopted by 28 votes to 21, with 20 abstentions. The fifteen-mile closing line contained in the text of the International Law Commission was then changed to twenty-four miles through the adoption, by 31 votes to 27, with 13 abstentions, of an amendment proposed by Bulgaria, Poland and the USSR (A/CONF.13/C.1/L.103) and by Guatemala (A/CONF.13/C.1/L.105).

49. The new paragraph 5 proposed by the United Kingdom was rejected by 28 votes to 18, with 22 abstentions. The remaining amendments and rearrangements proposed by the United Kingdom to paragraphs 1, 2 and 3 of the International Law Commission's text were referred to the drafting committee.

50. As regards paragraph 4 on historic bays, the amendment proposed by the United Kingdom (A/CONF.13/C.1/L.62) was withdrawn at the 48th meeting, and that by Japan (A/CONF.13/C.1/L.104) at the 63rd meeting. The International Law Commission's text for paragraph 4 was then adopted at the 63rd meeting. A draft resolution submitted by India and Panama proposing a study of the régime of historic bays (A/CONF.13/C.1/L.158/Rev.1) was adopted by 54 votes to 2, with 10 abstentions.

51. The final text of article 7 was adopted by the Committee, on the report of the drafting committee, at the 65th meeting.

ARTICLE 8

52. Article 8 and two amendments to it by Norway (A/CONF.13/C.1/L.97) and Portugal (A/CONF.13/C.1/L.101) were considered by the Committee at its 46th meeting.

The amendment by Norway was rejected by 54 votes to 6, with 10 abstentions. The amendment by Portugal to add a new paragraph was rejected by a roll-call vote of 33 to 15, with 23 abstentions. The International Law Commission's text of article 8 was then adopted by 70 votes to none, with 1 abstention.

ARTICLE 9

53. Article 9 and the amendments proposed thereto were considered by the Committee at its 46th meeting. There

² A/CONF.13/C.1/L.62, L.63, L.97, L.101, L.102, L.103, L.104, L.105, L.109.

were originally eight amendments to this article.¹ Prior to the voting, the amendment of Spain (A/CONF.13/C.1/L.111) was referred to the drafting committee since it related to the Spanish text only; the amendment of India (A/CONF.13/C.1/L.107) was orally amended; and the representative of Argentina accepted the amendment of Uruguay (A/CONF.13/C.1/L.68) to his own amendment (A/CONF.13/C.1/L.7/Rev.1). The voting was as follows:

The amendment of India (A/CONF.13/C.1/L.107), as orally amended, was rejected by 30 votes to 1, with 33 abstentions.

The amendment of the Netherlands (A/CONF.13/C.1/L.67) was rejected by 24 votes to 22, with 21 abstentions.

The amendment of Argentina (A/CONF.13/C.1/L.7/Rev.1), as amended by Uruguay, was adopted by 35 votes to 17, with 14 abstentions.

The United States amendment (A/CONF.13/C.1/L.110) was then orally amended, consequent upon the adoption of the Argentine amendment, by adding the words "and buoyed channels" after "roadsteads"; this was adopted by 54 votes to none, with 12 abstentions.

The Argentine proposal as a whole, as amended, was adopted by 52 votes to 7, with 8 abstentions.

ARTICLE 10

54. Article 10 was considered by the Committee at its 52nd meeting. There were originally six amendments submitted to the article,² of which two, namely, those of Spain (A/CONF.13/C.1/L.113) and Mexico (A/CONF.13/C.1/L.114), were referred to the drafting committee at the 52nd meeting. Prior to the voting, the United States orally amended its amendment at the suggestion of the representative of Chile, and Yugoslavia withdrew the second part of its amendment (A/CONF.13/C.1/L.52). The voting was as follows:

The amendment of Burma (A/CONF.13/C.1/L.3) was rejected by 32 votes to 1, with 22 abstentions.

The United States amendment (A/CONF.13/C.1/L.112) as orally amended was adopted by 37 votes to 6, with 14 abstentions.

The amendment of Yugoslavia (A/CONF.13/C.1/L.59) for a new paragraph 2 was adopted by 47 votes to 1, with 7 abstentions.

Article 10 as a whole, as amended, was adopted by 62 votes to none, with 1 abstention.

55. The article was re-drafted by the Committee, on the basis of the report of the drafting committee (A/CONF.13/C.1/L.167), at its 65th meeting.

ARTICLE 11

56. The Committee took up article 11 at its 60th meeting. An amendment proposed by the Netherlands (A/CONF.13/C.1/L.67) was withdrawn and a new title and text on low-tide elevations submitted by the United States (A/CONF.13/C.1/L.115) was adopted by 25 votes to 5, with 27 abstentions. A paragraph 2 proposed by the United Kingdom (A/CONF.13/C.1/L.62) was also adopted, by 50 votes to 1, with 7 abstentions.

57. The redraft of the article recommended by the drafting committee (A/CONF.13/C.1/L.167) was approved at the 65th meeting.

¹ A/CONF.13/C.1/L.7/Rev.1, L.67, L.68, L.97, L.101, L.107, L.110, L.111: the amendments of Norway (L.97) and Portugal (L.101) were withdrawn at the 46th meeting.

² A/CONF.13/C.1/L.3, L.59, L.98, L.112, L.113, L.114. The proposal of the Philippines (L.98) was later withdrawn.

ARTICLES 12, 13 AND 14

58. Articles 12, 13 and 14 were considered by the Committee at its 60th and 61st meetings. At the latter, there remained fifteen amendments covering the three articles, to which references are given in the summary record of that meeting. Upon voting on the proposals relating to article 12 at the 61st meeting, the proposal of Norway (A/CONF.13/C.1/L.97) was voted upon in parts as follows:

The first sentence of paragraph 1, which had the effect of merging articles 12 and 14 under one heading was adopted by 39 votes to 19, with 9 abstentions.

The phrase "historic title or other" in the second sentence as amended during the meeting, was adopted by 25 votes to 13, with 31 abstentions.

The phrase "special circumstances" in the second sentence was adopted by 38 votes to 7, with 22 abstentions.

The second sentence of paragraph 1, as amended, was adopted by 32 votes to 15, with 19 abstentions.

Paragraph 1 as amended during the meeting, was adopted by 39 votes to 13, with 14 abstentions.

The adoption of paragraph 1 of the amended Norwegian proposal made it unnecessary to vote on the amendments submitted by Yugoslavia (A/CONF.13/C.1/L.60), the Federal Republic of Germany (A/CONF.13/C.1/L.121) and Portugal (A/CONF.13/C.1/L.101).

Paragraph 2 of the Norwegian proposal was rejected by 26 votes to 24, with 14 abstentions.

The proposals submitted by Greece, the United States of America, Chile and Turkey (A/CONF.13/C.1/L.63, L.116, L.123, L.146) to delete paragraphs 2 and 3 of the International Law Commission's text were adopted by 30 votes to 25, with 13 abstentions.

Paragraph 4 of the International Law Commission's text was then adopted by 67 votes to none.

59. The Chairman stated that the decision on paragraph 4 would be subject to the drafting committee's report on the amendments submitted by Portugal (A/CONF.13/C.1/L.101) and the United States (A/CONF.13/C.1/L.116) relating to that paragraph; a further consequence of the voting on article 12, that is to say on paragraph 1 of the Norwegian proposal, was that it became unnecessary to consider any of the amendments relating to article 14 of the text of the International Law Commission.

60. Minor changes in the text recommended by the drafting committee (A/CONF.13/C.1/L.167) were approved at the 65th meeting.

61. Of the three amendments relating to article 13, only one, that of the Netherlands (A/CONF.13/C.1/L.108), was put to the vote; it was rejected by 43 votes to 6, with 18 abstentions. On the proposal of Mexico, the Committee adopted the International Law Commission's text of article 13 and referred the amendments of the United States (A/CONF.13/C.1/L.125) and Portugal (A/CONF.13/C.1/L.101) to the drafting committee. The latter's redraft of the article was adopted by the Committee at its 65th meeting. After paragraph 2 had been adopted by 26 votes to 7, with 10 abstentions, the text was approved without objection.

ARTICLE 15

62. The Committee considered article 15 at its 25th, 26th, 28th to 31st, 33rd, 36th and 65th meetings. There were originally twelve amendments submitted to the article, to which references can be found in the relevant summary records. The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

Paragraph 3

63. At the 25th meeting, the Committee adopted a suggestion by the Chairman that the sponsors of amendments of substance to paragraph 3 should consult together informally with a view to consolidating their amendments. The delegations concerned were Yugoslavia, Romania, United Kingdom, Federal Republic of Germany, Portugal, Netherlands, and the United States of America (A/CONF.13/C.1/L.15, L.23, L.24, L.25, L.26, L.27, L.28). At the 28th meeting, the United States introduced, as the text approved by this working group, its revised amendment (A/CONF.13/C.1/L.28/Rev.1). At the time of voting at the 33rd meeting, there were four amendments relating to this paragraph. They were put to the vote in the following order:

The amendment of Chile, Ecuador, Haiti, Mexico, Panama, Peru, Uruguay, Venezuela (A/CONF.13/C.1/L.74) was rejected by a roll-call vote of 32 to 31, with 5 abstentions;

The amendment of India (A/CONF.13/C.1/L.73) was adopted by 38 votes to 19, with 12 abstentions;

The amendment of Turkey (A/CONF.13/C.1/L.65) was adopted by 38 votes to 9, with 14 abstentions;

The amendment of the United States (A/CONF.13/C.1/L.28/Rev.1), as amended, was adopted by 35 votes to 22, with 11 abstentions;

Paragraph 3, as amended, was adopted by 55 votes to none, with 8 abstentions.

Paragraph 5

64. After the amendment of Portugal to paragraph 5 (A/CONF.13/C.1/L.26) had been withdrawn in favour of the French amendment (A/CONF.13/C.1/L.6), the French amendment was adopted, at the 37th meeting, by 65 votes to none, with 2 abstentions, and paragraph 5, as amended, was then adopted by 59 votes to one.

Proposals for additional paragraphs

65. At the 26th meeting, Denmark (A/CONF.13/C.1/L.29), Italy (A/CONF.13/C.1/L.30), Yugoslavia (A/CONF.13/C.1/L.15) and Canada, the last orally supporting the Yugoslav proposal, accepted the Chairman's suggestion to consolidate a text regarding the right of innocent passage for fishing vessels. The consolidated text appeared as document A/CONF.13/C.1/L.64, later revised (A/CONF.13/C.1/L.64/Rev.1). Prior to the voting, at the 37th meeting, the sponsors of this joint proposal withdrew in favour of the United Kingdom amendment (A/CONF.13/C.1/L.132) after the United Kingdom representative had agreed to the deletion of the last sentence. The Mexican representative then reintroduced the four-power proposal (A/CONF.13/C.1/L.64/Rev.1) in the name of Mexico, and this was adopted by the Committee by a roll-call vote of 29 to 23, with 14 abstentions. This was considered as tantamount to rejection of the United Kingdom amendment.

66. A proposal by Yugoslavia (A/CONF.13/C.1/L.15) for a new paragraph relating to flying-boats and similar aircraft on the surface was put to the vote at the 37th meeting and was rejected by 53 votes to one, with 13 abstentions.

Paragraphs 1, 2 and 4

67. Paragraphs 1, 2 and 4 of article 15 were referred to the drafting committee, since the few amendments proposed were of a formal character. On the report of the drafting committee (A/CONF.13/C.1/L.167) the Committee adopted the International Law Commission's text of these

three paragraphs and made minor changes of style and arrangement in approving the text of the article as a whole.

ARTICLE 16

68. The Committee considered article 16 at its 26th and 38th meetings. There were five amendments to this article.¹ At the 38th meeting, the amendments were put to the vote in the following order:

The joint amendment of the Union of Soviet Socialist Republics and Bulgaria (A/CONF.13/C.1/L.46) was rejected by 46 votes to 12, with 13 abstentions;

The amendment of the United States of America (A/CONF.13/C.1/L.38) was adopted by 26 votes to 18, with 25 abstentions;

In consequence, the United Kingdom amendment (A/CONF.13/C.1/L.37) relating to paragraph 1 was not required to be put to the vote and the amendment to paragraph 2 was then referred to the drafting committee;

The amendment of Yugoslavia (A/CONF.13/C.1/L.16) was rejected by 17 votes to 11, with 43 abstentions;

Article 16, as amended, was then adopted by 59 votes to 1, with 10 abstentions.

69. At its 65th meeting, the Committee approved drafting changes reported by the drafting committee.

ARTICLE 17

70. Article 17 was considered by the Committee at its 27th, 28th, 32nd, 33rd and 34th meetings. There were originally eleven amendments submitted to this article.² The following is a description, paragraph by paragraph, of the way in which the Committee arrived at the eventual text of the article.

71. At the 27th meeting, the Chairman suggested that the delegations of Chile, France, Greece, Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia should consult together with a view to merging their proposals³ into a single text for paragraphs 1, 3 and 4, as well as for any additional paragraphs. The Committee accepted this suggestion.

Paragraph 1

72. As a result of consultations between delegations there remained before the Committee at the 34th meeting, when paragraph 1 was voted upon, only one amendment, submitted by Greece, the Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia, which was adopted by 36 votes to 21, with 10 abstentions.

Paragraph 2

73. There were no amendments to this paragraph so that the International Law Commission's text was accepted, without being put to the vote, at the 34th meeting.

Paragraph 3

74. As a result of consultations between delegations, a four-power proposal (A/CONF.13/C.1/L.70) replaced those formerly standing in the name of the United Kingdom, the United States, Portugal and the Netherlands (A/CONF.13/C.1/L.37, L.39, L.47, L.51). Therefore, at the 34th meeting, when this paragraph was put to the

¹ A/CONF.13/C.1/L.16, L.18, L.37, L.38, L.46.

² A/CONF.13/C.1/L.6, L.17, L.31, L.32, L.37, L.39, L.44, L.47, L.51, L.52, L.56.

³ A/CONF.13/C.1/L.56, L.6, L.31, L.51, L.47, L.37, L.39, L.17.

vote, there remained the following amendments, which were voted upon as follows. The amendment of Greece (A/CONF.13/C.1/L.31) as amended at the 32nd meeting, was adopted by 34 votes to 11, with 20 abstentions; the four-power amendment was adopted by 32 votes to 27, with 8 abstentions. Paragraph 3, as amended, was then adopted by 31 votes to 27, with 5 abstentions.

Paragraph 4

75. After the United States and Chile had withdrawn their amendments (A/CONF.13/C.1/L.39, L.56) at the 32nd and 33rd meetings respectively, and the three remaining amendments had been combined in a single joint proposal by the Netherlands, Portugal and the United Kingdom (A/CONF.13/C.1/L.71), this joint proposal, as amended at the 33rd meeting, was adopted at the 34th meeting by a roll-call vote of 31 to 30, with 10 abstentions.

Proposals for additional paragraphs

76. Of the three proposals for new paragraphs, namely, those of France, the Netherlands and Bolivia (A/CONF.13/C.1/L.6, L.51, L.52), the last was referred to the Fifth Committee and the first two were voted upon at the 34th meeting. The French proposal was rejected by 23 votes to 16, with 25 abstentions; the Netherlands proposal was rejected by 31 votes to 18, with 19 abstentions. Drafting amendments were approved by the Committee at its 65th meeting.

ARTICLE 18

77. Article 18 was considered by the Committee at its 27th, 33rd, 34th, 35th and 36th meetings. There were originally eight amendments to this article.¹ At the 33rd meeting, a proposal (A/CONF.13/C.1/L.72) in the name of Greece, the Netherlands, Portugal, the United Kingdom, the United States and Yugoslavia was introduced so that at the time of voting at the 34th meeting there remained only three amendments, which were taken in the following order:

The Mexican amendment (A/CONF.13/C.1/L.45) was adopted by a roll-call vote of 33 to 30, with 10 abstentions.

This was considered as tantamount to a rejection of the six-power amendment.

The Greek amendment (A/CONF.13/C.1/L.32) was voted upon in two parts; the first part, up to the word "nor", was adopted by 31 votes to 15, with 18 abstentions, and the second was rejected by 21 votes to 9, with 36 abstentions.

78. At the 35th meeting, article 18, as amended, was put to the vote as a whole by roll-call and was rejected by 34 votes to 28, with 10 abstentions. At the 36th meeting, the original text of the International Law Commission was put to the vote and adopted by 59 votes to none, with 3 abstentions. Drafting modifications were approved at the 65th meeting.

ARTICLE 19

79. The Committee considered article 19 at its 27th and 28th meetings. Of the three amendments to this article, that of the United Kingdom (A/CONF.13/C.1/L.37) was treated as a purely formal amendment, that of Spain (A/CONF.13/C.1/L.36) was referred to the drafting committee, so that at the 38th meeting only that of Norway (A/CONF.13/C.1/L.119) remained. This was adopted by 33 votes to 10, with 26 abstentions and the Inter-

¹ A/CONF.13/C.1/L.19, L.32, L.36, L.37, L.40, L.45, L.47, L.51.

national Law Commission's text, as amended, was then adopted by 64 votes to 1, with 7 abstentions. Drafting alterations were approved at the 65th meeting.

ARTICLE 20

80. The Committee considered article 20 at its 27th, 28th and 30th meetings. There were originally seven amendments to this article.² The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

Paragraph 1

81. There were three amendments to this paragraph which were put to the vote at the 38th meeting in the following order:

The amendment of Pakistan (A/CONF.13/C.1/L.53) was adopted by 35 votes to 8, with 30 abstentions;

The United States amendment (A/CONF.13/C.1/L.41) was adopted by 33 votes to 21, with 20 abstentions;

The United Kingdom amendment (A/CONF.13/C.1/L.37) was adopted by 56 votes to 4, with 13 abstentions;

Paragraph 1, as amended, was adopted by 64 votes to none, with 7 abstentions.

Paragraph 2

82. At the 38th meeting, the United States amendment (A/CONF.13/C.1/L.41) deleting the words "lying in the territorial sea or" was adopted by 21 votes to 20, with 34 abstentions. There was, therefore, no need to proceed with the United Kingdom amendment to this paragraph (A/CONF.13/C.1/L.37) and the International Law Commission's text of the paragraph, as amended, was then adopted by 68 votes to none, with 4 abstentions.

Paragraph 3

83. There were no amendments to this paragraph and the International Law Commission's text was adopted unanimously at the 38th meeting.

Proposals for additional paragraphs

84. There were three proposals under this heading which were treated in the following order at the 38th meeting:

The proposal of Greece (A/CONF.13/C.1/L.33), as amended by Yugoslavia, was adopted by 44 votes to 5, with 17 abstentions;

The United Kingdom proposal (A/CONF.13/C.1/L.37) was adopted by 50 votes to 5, with 18 abstentions.

The adoption of the United Kingdom proposal was considered as tantamount to a rejection of the proposal of Turkey (A/CONF.13/C.1/L.88), and the United Kingdom proposal, as adopted, was then sent to the drafting committee for consideration, together with the similar Yugoslav proposal (A/CONF.13/C.1/L.20). The voting on the article as a whole was deferred until after the report of the drafting committee was received. The latter amalgamated the United Kingdom and Yugoslav texts and the new paragraph became paragraph 5 of article 20. The revised article was adopted by the Committee at its 65th meeting.³

² A/CONF.13/C.1/L.6, L.20, L.33, L.37, L.41, L.53, L.88.

³ At the 66th meeting, when the draft report of the Committee (A/CONF.13/C.1/L.168/Add.1) was under consideration, the representative of Turkey stated that paragraph 5 of this article was unacceptable to Turkey. The representatives of Chile and Uruguay also stated that the wording of this article conflicted with the provisions of the laws of their countries.

ARTICLE 21

85. The Committee considered article 21 at its 28th, 38th, 39th and 40th meetings. There were originally seven amendments¹ to this article of which two, namely, part of the United States (A/CONF.13/C.1/L.42) and Portuguese (A/CONF.13/C.1/L.47) amendments relating to the title of the article, were referred to the drafting committee at the 38th meeting. The following is a description, paragraph by paragraph, of the work of the Committee in arriving at the text of the article.

Paragraph 1

86. At the 40th meeting, the only remaining amendment, that of the United States (A/CONF.13/C.1/L.42), was voted upon as follows:

The amendment to insert the word "generally" was rejected by 37 votes to 8, with 21 abstentions;

The amendment to replace the words "may not arrest" by "should not stop" was adopted by 28 votes to 9, with 29 abstentions;

The International Law Commission's text, as amended, was adopted by 54 votes to none, with 7 abstentions.

Paragraph 2

87. The amendment of France (A/CONF.13/C.1/L.6), having been referred to the drafting committee at the 40th meeting, the Committee then voted upon and rejected the United States amendment (A/CONF.13/C.1/L.42) by 44 votes to 5, with 12 abstentions. The International Law Commission's text was then approved without being put to the vote.

Paragraph 3

88. The United States amendment (A/CONF.13/C.1/L.42) to delete this paragraph was withdrawn at the 40th meeting, and the International Law Commission's text of the paragraph was then approved without being put to the vote.

Proposals for additional paragraphs

89. There were two proposals under this heading, that of Denmark (A/CONF.13/C.1/L.49) which was withdrawn at the 39th meeting, and that of the Netherlands (A/CONF.13/C.1/L.51), in support of which the United Kingdom had withdrawn its own amendment (A/CONF.13/C.1/L.37) at the 40th meeting. The Committee decided to adopt the principle embodied in the Netherlands proposal, in the form of a general recommendation to the Conference (see paragraph 97 below).

ARTICLES 22 AND 23

90. The Committee considered five amendments relating to the form or content of article 22.² Two amendments were withdrawn; that of Romania (A/CONF.13/C.1/L.44) on immunity was rejected by 28 votes to 10, with 14 abstentions; that of the Republic of Korea (A/CONF.13/C.1/L.50) on previous notification was also rejected, by 37 votes to 6, with 11 abstentions. A United Kingdom proposal to eliminate the articles by rearrangement and changes in the headings was referred to the drafting committee.

91. As to article 23, there were six amendments.³ The

¹ A/CONF.13/C.1/L.6, L.36, L.37, L.42, L.47, L.49, L.51.

² A/CONF.13/C.1/L.36, L.37, L.44, L.50, L.51.

³ A/CONF.13/C.1/L.34, L.36, L.37, L.47, L.48, L.50.

proposal of the Republic of Korea corresponding to that under article 22 was rejected at the 48th meeting by 41 votes to 7, with 14 abstentions. The amendment of the Federal Republic of Germany to insert a cross-reference to article 19 was withdrawn, then reintroduced by India, and adopted by 18 votes to 15, with 28 abstentions. All other proposals being withdrawn, the article went to the drafting committee for consideration of the United Kingdom proposal mentioned above.

92. The conclusion of the drafting committee (A/CONF.13/C.1/L.167) was that the cross-reference to article 19 prevented these two articles (which otherwise represented merely a method of arrangement) from being deleted in favour of a rearrangement of headings. The Committee adopted the International Law Commission's text of article 22, and of article 23 as amended, at its 65th meeting.

ARTICLE 24

93. The Committee considered article 24 at its 41st and 42nd meetings. There were originally nine amendments⁴ to this article. Prior to voting at the 42nd meeting the amendments of the United States (A/CONF.13/C.1/L.43), Portugal (A/CONF.13/C.1/L.47) and Greece (A/CONF.13/C.1/L.34) were withdrawn, the last on condition that the amendment of the Republic of Korea (A/CONF.13/C.1/L.50) to article 23 should be put to the vote. The representative withdrew his amendment (A/CONF.13/C.1/L.36) during the course of voting. The voting was as follows:

The amendment of the Federal Republic of Germany (A/CONF.13/C.1/L.48) was rejected by 35 votes to 22, with 8 abstentions;

The amendment of the Netherlands (A/CONF.13/C.1/L.51), as orally amended at the 42nd meeting, was rejected by 38 votes to 17, with 10 abstentions;

The amendment of Poland (A/CONF.13/C.1/L.35) was rejected by 28 votes to 18, with 21 abstentions;

The amendment of the United Kingdom (A/CONF.13/C.1/L.37/Corr.2) was rejected by 27 votes to 25, with 13 abstentions;

The amendment of Yugoslavia (A/CONF.13/C.1/L.21) to add a new paragraph 2, amended to read "warship" instead of "ship" was rejected by 33 votes to 7, with 22 abstentions;

The amendment of Yugoslavia to add a new paragraph 3 was adopted by 26 votes to 4, with 33 abstentions;

The International Law Commission's text of article 24, as amended, was then adopted by 54 votes to 5, with 8 abstentions.

94. Drafting changes were approved at the 65th meeting.

ARTICLE 25

95. The Committee had before it, at its 43rd meeting, four amendments to article 25.⁵ Two of these were withdrawn; that of Yugoslavia (A/CONF.13/C.1/L.22) was rejected by 22 votes to 4, with 32 abstentions.

96. A rearrangement of the text suggested by the Netherlands (A/CONF.13/C.1/L.51/Corr.2) was found by the drafting committee to be prevented by the considerations stated under articles 22 and 23 above. The Committee, at its 65th meeting, therefore adopted the International Law Commission's text with one drafting alteration.

⁴ A/CONF.13/C.1/L.21, L.34, L.35, L.36, L.37/Corr.2, L.43, L.47, L.48, L.51.

⁵ A/CONF.13/C.1/L.22, L.36, L.47, L.51/Corr.2.

KIND OF INSTRUMENT REQUIRED TO EMBODY THE RESULTS
OF THE WORK OF THE FIRST COMMITTEE

97. At its 65th meeting on 25 April the Committee decided to leave it to the Conference to decide on the kind of instrument required to embody the results of its work. Without prejudice to any decision which the Conference may take, the Committee recommend the inclusion of a provision similar to that proposed by the Drafting Committee of the Conference in respect of the articles adopted by the Second Committee (A/CONF.13/L.37, para. 3). This provision should state that the articles adopted shall not affect conventions or other international agreements already in force, as between States parties to them.

Annex

I

**Text of the articles concerning the territorial sea
and the contiguous zone adopted by the First Committee¹**

TERRITORIAL SEA

SECTION I. GENERAL

Article 1

Juridical status of the territorial sea

1. The sovereignty of a State extends, beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.
2. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2

*Juridical status of the air space over the
territorial sea and of its bed and subsoil*

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

SECTION II. LIMITS OF THE TERRITORIAL SEA

Article 4

Normal baseline

Except where otherwise provided in these articles, the 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 5

Straight baselines

1. In localities where the coastline as a whole 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 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. Except where justified on historical grounds or imposed by the peculiar geography of the coast concerned, the length of the straight baseline provided for in paragraph 1 shall not exceed fifteen miles.
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 a 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 5 A

Internal waters

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 5 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles 15 to 25, shall exist in those waters.

Article 6

Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 7

Bays

1. This article relates only to bays the coasts of which belong to a single State.
2. For the purposes 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 landlocked 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 area of the indentation.
4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed twenty-four 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 twenty-four miles, a straight baseline of twenty-four 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 provisions shall not apply to so-called "historic" bays, or in any cases where the straight baseline system provided for in article 5 is applied.

Article 8

Ports

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Article 9

Roadsteads

1. Buoyed channels giving access to ports, and 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

¹ For the text of articles 3 and 66, see above, paragraphs 25 and 28.

the territorial sea. The coastal State must clearly demarcate such roadsteads and buoyed channels and indicate them on charts together with their boundaries, to which due publicity must be given.

2. This article shall not apply to buoyed channels giving access to ports of more than one State.

Article 10

Islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high-tide.

2. The territorial sea of an island is measured in accordance with the provisions of these articles.

Article 11

Low-tide elevations

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low-tide but submerged at high-tide. Where a low-tide elevation is wholly or partly at a distance, from the mainland or an island, not exceeding the breadth of the territorial sea, the low-water line on that elevation may be used as the baseline for measuring the territorial sea.

2. Where a low-tide elevation is situated wholly at a distance, from the mainland or an island, exceeding the breadth of the territorial sea, it has no territorial sea of its own.

Article 12

Delimitation of the territorial sea between States with opposite or adjacent coasts

1. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of the two States is measured. This provision shall not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance with this provision.

2. The line of delimitation between the territorial seas of two States lying opposite to each other or adjacent to each other shall be marked on large-scale charts officially recognized by the coastal States.

Article 13

Delimitation of the territorial sea at the mouth of a river

1. 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 on the banks.

2. If the river flows into an estuary the coasts of which belong to a single State, article 7 shall apply.

Article 14 (Eliminated)

SECTION II. RIGHT OF INNOCENT PASSAGE

Sub-section A. Rules applicable to all ships

Article 15

Meaning of the right of innocent passage

1. Subject to the provisions of the present articles, ships of all States shall enjoy the right of innocent passage through the territorial sea.

2. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to internal waters, or of making for the high seas from internal waters.

3. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or by distress.

4. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with the present rules and with other rules of international law.

5. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent them from fishing in the territorial sea.

6. Submarines are required to navigate on the surface and to show their flag.

Article 16

Duties of the coastal State

1. The coastal State must not hamper innocent passage through the territorial sea.

2. The coastal State is required to give appropriate publicity to any dangers to navigation within its territorial sea of which it has knowledge.

Article 17

Rights of protection of the coastal State

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which the admission of those ships to those waters is subject.

3. Subject to the provisions of paragraph 4, the coastal State may, without discrimination among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

4. There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.

Article 18

Duties of foreign ships during their passage

Foreign ships exercising the right of innocent passage shall comply with the laws and regulations enacted by the coastal State in conformity with these articles and other rules of international law and, in particular, with such laws and regulations relating to transport and navigation.

Sub-section B. Merchant ships

Article 19

Charges to be levied upon foreign ships

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 20

Arrest on board a foreign ship

1. The criminal jurisdiction of the coastal State should, generally, not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases ;

(a) If the consequences of the crime extend to the coastal State ; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea ;

(c) If the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies, or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, before taking any steps advise the consular authority of the flag State and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interest of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 21

Arrest of foreign ships for the purpose of exercising civil jurisdiction

1. A coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. A coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving the internal waters.

Sub-section C. Government ships other than warships

Article 22

Government ships operated for commercial purposes

The rules contained in sub-sections A and B shall also apply to government ships operated for commercial purposes.

Article 23

Government ships operated for non-commercial purposes

The rules contained in sub-section A and in article 19 shall apply to government ships operated for non-commercial purposes.

Sub-section D. Warships

Article 24

Passage

1. The coastal State may make the passage of warships through the territorial sea subject to previous authorization or notification. Normally it shall grant innocent passage subject to the observance of the provisions of articles 17 and 18.

2. During passage warships have complete immunity from the jurisdiction of any State other than its flag State.

Article 25

Non-observance of the regulations

If any warship does not comply with the regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

II

Text of the draft resolution adopted by the First Committee

RÉGIME OF HISTORIC WATERS

The First Committee,

Considering that the International Law Commission has not provided for the régime of historic waters including historic bays,

Recognizing the importance of the juridical status of such areas,

Recommends that the Conference should refer the matter to the General Assembly of the United Nations with the request that the General Assembly should make appropriate arrangements for the study of the juridical régime of historic waters including historic bays, and for the result of these studies to be sent to all member States of the United Nations.

DOCUMENT A/CONF.13/L.29

United States of America: proposal

[Original text: English]
[24 April 1958]

Article 3 shall read as follows:

"1. The maximum breadth of the territorial sea of any State shall be six miles.

"2. The coastal State shall in a zone having a maximum breadth of twelve miles, measured from the applicable baseline, determined as provided in these rules, have the same rights in respect of fishing and the exploitation of the living resources of the sea as it has in its territorial sea ; provided that such rights shall be subject to the right

of the vessels of any State whose vessels have fished regularly in that portion of the zone having a continuous baseline and located in the same major body of water for the period of five years immediately preceding the signature of this convention, to fish in the outer six miles of that portion of the zone, under obligation to observe therein such conservation regulations as are consistent with the rules on fisheries adopted by this conference and other rules of international law.

"3. Any dispute with respect to the interpretation or