

Third United Nations Conference on the Law of the Sea

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Summary records of meetings of the Second Committee 40th meeting

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waters. Very pertinent remarks had been made about the need for equal treatment for all parts of a State's territory in support of the idea that archipelagos, both oceanic and coastal, should be given more favourable treatment; he indeed saw no reason to distinguish between oceanic and coastal archipelagos since the geographical factors involved were the same. There was, moreover, a wide consensus that all States, including landlocked and other geographically disadvantaged countries, should work together as partners. It seemed odd that one part of the earth, islands, should not benefit from that trend and

should even lose their rights under existing law and practice. He was not pleading for increased rights or special privileges for islands, but was simply proposing that insular populations should be on an equal footing with others and not deprived of their existing rights under international law.

81. Mr. ABBADI (Deputy Secretary of the Committee) announced that Peru and Morocco had become sponsors of document A/CONF.62/C.2/L.58.

The meeting rose at 1.10 p.m.

40th meeting

Wednesday, 14 August 1974, at 4 p.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Régime of islands (*concluded*)

[*Agenda item 19*]

1. Mr. MORALES PAUL (Venezuela) said that Venezuela attached great importance to the question of islands, as most of the islands in the chain along its coast were subject to the indivisible exercise of Venezuelan territorial sovereignty, even though the continuity of the chain was broken by islands under the sovereignty of another State. The Venezuelan islands also had archipelagic characteristics.

2. Article 1 of the 1958 Convention on the Continental Shelf¹ and article 10 of the 1958 Convention on the Territorial Sea and the Contiguous Zone,² both of which Conventions had been ratified by Venezuela, did not make the maritime jurisdiction of islands depend on their area, the length of their coasts, or any other criterion extraneous to the existing definition. He was pleased to note that the ideas underlying those provisions were shared by many delegations, as shown in documents A/CONF.62/C.2/L.30 and 50 and by the statement of the representative of Trinidad and Tobago at the previous meeting.

3. His delegation supported document A/CONF.62/C.2/L.58, but felt that the proposal in it should be supplemented by recognition of the right of the inhabitants of the territories to which it referred to exploit resources "in accordance with their needs and requirements", as stated in document A/CONF.62/C.2/L.30. That solution was a just one in that it allowed for the development needs of the inhabitants of dependent territories.

4. Mr. AMATO (Uruguay) said that his delegation, as a sponsor of document A/CONF.62/C.2/L.58, believed that a colonial or occupying Power could not validly invoke or exercise for its own benefit rights which belonged either to the sovereign State established when the colonial yoke was removed or to the sovereign State to which the occupied territory legitimately belonged.

5. His delegation did not deny the rights which belonged to the territory as such, irrespective of whether it was occupied or under colonial domination. That was clearly reflected in the phrase "as long as that situation persists". However, those rights could not be exercised or invoked by those who were not entitled to them. To provide the contrary would be to allow those rights to be usurped. The new law of the sea should be based on principles of justice and respect for self-determination and sovereignty and could not serve directly or indirectly to consolidate unjust or unlawful situations.

6. Mr. QUENEDEC (France) said that his delegation, as it had stated during the debate on archipelagos, believed that

there was no legal justification for any distinction between continental land masses and islands with regard to the establishment of a zone where economic rights would be exercised, unless it was possible to arrive at a formula which took into account the divergent interests of the various States involved. The various proposals concerning islands submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and to the Conference demonstrated the practical impossibility of arriving at such a formula, since almost all of them aimed essentially at limited and unrelated objectives. As the representative of Trinidad and Tobago had demonstrated at the preceding meeting, those proposals, in attempting to satisfy particular interests—however legitimate those interests might be—entailed ingenious criteria and resulted in complex formulae which led other delegations to submit further proposals designed to solve the artificial difficulties that the original proposals created.

7. Certain proposals could not be retained in the form in which they had been submitted. Document A/CONF.62/C.2/L.30, for example, contained some interesting provisions, but its part B was difficult to accept in its existing form as it appeared to deny territories which had not attained independence or autonomy "following an act of self-determination under the auspices of the United Nations" economic rights over maritime resources. Did that mean territories attaining independence or autonomy outside United Nations auspices would be deprived of their natural rights over the resources of adjacent maritime areas? His delegation believed that it was impossible to make distinctions among islands, since that would amount to denying to certain island territories generally recognized economic rights. It was unnecessary to include particular provisions on that subject in the convention because of the recognized principle of the sovereignty of States

8. However, if it was deemed necessary to lay down express rules, it would be sufficient to have a clause applying the fundamental rules of the sovereignty of States over all their territories, including islands, and recognizing the consequent rights.

9. The only real problem created by the existence of islands was that of delimiting areas under national jurisdiction. On that question also the various proposals that had been submitted seemed designed to cover particular or local situations. It should be possible to find a general rule allowing respect for the requirements of equity while leaving the door open for the consideration of the facts of each situation. In that regard the proposal in document A/CONF.62/C.2/L.28 reflected a viewpoint which deserved attention. The presence of islands or islets was, in fact, a special circumstance which should be taken into account when dealing with delimitation problems. Such

¹ United Nations, *Treaty Series*, vol. 499, p. 312.

² *Ibid.*, vol. 516, p. 206.

problems in any case, could be solved only through direct agreement between the parties concerned.

10. Mr. PONCE ENRIQUEZ (Ecuador) said that document A/CONF.62/C.2/L.58, of which his delegation was a sponsor, was so important that it could not fail to enlist the support of countries which believed in justice and in putting an end to the rule of force. It was inspired by concepts of liberty and independence and designed to ensure that the oppressive colonial Powers would find it more and more difficult to continue along the path of exploitation and injustice.

11. The Conference was working to establish a just and equitable system of international co-operation which would make it possible to narrow the enormous gap between rich and poor countries. Despite the process of liberation from colonialist régimes and despite the Declaration on the Granting of Independence to Colonial Countries and Peoples, there were still territories, including territories in the Americas, occupied by foreign Powers. The rights laid down in the future convention must not be used by those Powers to maintain their hegemony and to perpetuate the injustices created for their exclusive benefit. Those rights existed in order to facilitate the development and progress of free peoples. In keeping with the new concepts which should underlie the convention, they legitimately belonged to the inhabitants of the territories.

12. The peoples of the world were moving ever more rapidly towards liberty and independence and towards a greater awareness of their rights and of the need to acquire or claim them. Certain Powers, on the other hand, were speaking of the need for a political realism which divided the world into two areas for the purpose of distributing the benefits gained through intimidation. Neither that kind of political realism nor the continuation of colonial régimes was acceptable to his delegation. What had to be recognized, instead, was the indomitable strength of the countries which were striving for a just law of the sea. It was blindness not to accept that reality and to draw the logical conclusions from it.

13. Mr. ROBINSON (Jamaica) endorsed the statement of the representative of Trinidad and Tobago at the preceding meeting, particularly as it related to the rights of island territories such as those which constituted the associated States of the Caribbean.

14. In view of the inequities of the past, provisions such as those in articles 3 and 4 of his delegation's draft articles (A/CONF.62/C.2/L.35) should be included in the convention. Such provisions should relate not only to islands but to all territories under foreign domination, and should relate to all rights conferred by the convention, not just those relating to the economic zone. Part B of document A/CONF.62/C.2/L.30, which contained a useful formulation, could be amended to cover the latter point.

15. In principle, his delegation supported the view that every island generated and was entitled to its own territorial sea, economic zone and continental shelf. It could not endorse the view that an island's maritime space should be determined according to criteria different from those used for continental land masses. That approach would be legitimate if it were possible to isolate criteria which applied only to islands, but criteria such as size and population were as applicable to continental land masses as they were to islands, and it was difficult to understand why they should be used only to determine the maritime space of islands.

16. Mr. JACOVIDES (Cyprus) said that the proper treatment of the question of islands in accordance with the requirements of international law and equity was of vital national interest to his delegation and also a test of whether the new convention would be based on fairness and objectivity.

17. His delegation's fundamental position, set forth in its statements at the 40th plenary meeting and at previous meetings of the Second Committee, was that no distinction whatsoever

should be made between islands, irrespective of their size and population, and continental land masses, and that the principles for determining the territorial sea, the continental shelf and the economic zone of islands should be exactly the same as those that were applied in determining the corresponding national jurisdictions of continental land masses.

18. His delegation's position was firmly based on existing law and practice; he wished to refer in that regard to article 10 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone, and to article 1 (b) of the 1958 Geneva Convention on the Continental Shelf. He was accordingly gratified to note that that position was shared by a large number of States, and not only by island States. His delegation particularly wished to associate itself with the views expressed by the representative of Trinidad and Tobago and by the sponsors of document A/CONF.62/C.2/L.30.

19. In the case of opposite or adjacent States, delimitation should, in the absence of agreements freely arrived at on the basis of equality, be based on the median line principle, which was equitable and firmly based in existing law. To avoid discrimination, that line should be measured from the insular as well as from the continental baselines.

20. His delegation hoped that the Conference would not allow itself to be swayed by attempts to promote narrow national interests, to the detriment of the legitimate rights of islands, which were based on such principles as the sovereign equality of all States.

21. Mr. SANTISO GALVEZ (Guatemala) stressed his delegation's deep interest in all questions relating to the liberation of peoples under colonial domination. In view of that interest, it had been among the sponsors of document A/CONF.62/C.2/L.58. In order to leave no doubt of his delegation's position in the event that that proposal was not adopted, he wished the following statement to be placed on record: Guatemala would not accept the application of any provision of the convention or conventions that the Conference might adopt, nor would it recognize any rights deriving therefrom, either in or for territories occupied by foreign Powers, in usurpation of the legitimate sovereign rights of other States over those territories.

22. Mr. KEDADI (Tunisia) said that the handful of countries which had done their utmost to prevent the inclusion of item 19 in the agenda and to delay its discussion were those whose interests were protected by the provisions relating to the régime of islands in the 1958 Geneva Conventions. Those provisions offered only a weak definition of islands and granted them the same rights as it granted continental land masses.

23. Such a situation favoured mainly those countries which had been able to extend their power over a large number of islands, while it was detrimental to the developing countries, which had not participated in the elaboration of the 1958 Geneva Conventions and which for the most part did not possess any islands. It was also unfavourable to all land-locked and other geographically disadvantaged States, which, having expected an equitable distribution of the resources of the international zone, were justly concerned at seeing that concept rendered meaningless by the exaggerated claims of countries possessing islands, particularly when the concept of the 200-mile economic zone and that of archipelagic States promised to become a reality.

24. The Declaration of the Organization of African Unity (A/CONF.62/33) was an attempt to resolve that conflict of interests and establish objective and equitable rules, and his delegation had demonstrated its full support for part B of that Declaration by joining in sponsoring documents A/AC.138/SC.II/L.40 and 43 (A/9021 and Corr.1 and 3, Vol. III, Sects. 29 and 32) and also document A/CONF.62/C.2/L.28, on delimitation.

25. A solution could be found only if the relevant clauses of the 1958 Geneva Conventions were tightened up and made more precise. To that end, he wished to introduce, on behalf of his own delegation and those of Algeria, Dahomey, Guinea, Liberia, Madagascar, Mali, Mauritius, Mauritania, Morocco, Senegal, Upper Volta and Zambia, draft articles on item 19 (A/CONF.62/C.2/L.62).
26. Articles 1 and 2 of the draft defined as accurately as possible the size of the different areas and the elevations of land, their degree of proximity to the coast, and the various factors that should be taken into account for the purposes of delimitation.
27. The provisions of article 3 would ensure that non-adjacent islands were not used for delimitation between adjacent or opposite States. That principle was in line with the provisions of document A/CONF.62/C.2/L.28.
28. Under article 4 the provisions of articles 1 and 2 would not apply to insular or archipelagic States, and a coastal State would not be entitled to claim rights based on the controversial concept of archipelagos by reason of its exercise of sovereignty over a group of islands situated off its coasts.
29. Article 5 which concerned islands under colonial domination or foreign occupation, provided that the rights to the maritime spaces and to the resources thereof belonged to the inhabitants of those islands and must profit only their own development.
30. The sponsors trusted that their proposal would be taken into account in the preparation of the informal working paper to be produced on item 19.
31. Mr. TANOÉ (Ivory Coast) requested that his delegation be included in the list of sponsors of the proposal introduced by Tunisia.
32. Mr. VENCHARD (Mauritius), speaking as a sponsor of document A/CONF.62/C.2/L.62, said that article 5 gave concrete form to paragraph 10 of the Declaration of the Organization of African Unity, and was very similar to part B of document A/CONF.62/C.2/L.30; it would ensure that the resources of islands under colonial domination or foreign occupation were vested in the inhabitants of such islands. In the case of inhabitants who had been displaced—a situation not provided for in that article—his delegation considered that their rights should not be affected by their displacement.
33. Mr. DUDGEON (United Kingdom) said that the question of islands was particularly important to the United Kingdom which itself consisted of a group of islands.
34. There was an immense diversity of island situations, ranging from large and populous islands forming part of even larger continental States to small islands with self-sufficient populations. The world community had already drawn up a body of rules for the maritime spaces of islands, including the rule that islands were entitled to a territorial sea and a continental shelf and the rule on drawing straight baselines round fringes of islands along the coast. There were, however, no rules classifying islands into different types.
35. Attempts had nevertheless been made at the Conference to divide islands into different categories by reference to various criteria, including size, population, position and political status. However, his delegation did not believe that that approach could result in any generally applicable rules that would be equitable in all cases. Indeed any such formulation was in grave danger of discounting many islands of both absolute and relative importance.
36. One criterion suggested was that of population. In various parts of the world, even in very recent times, several islands which had been inhabited and even self-sufficient had become uninhabited as a result of temporary or long-term changes in climate or economics. Other small islands, formerly uninhabited, had been populated or repopulated. Particularly where the economy of States, or regions of States, with such islands was precarious, it would be grossly unfair to deprive them of, say, an economic zone which might prove a more permanent and certain means of achieving satisfactory development in the face of otherwise overwhelming geographical disadvantages.
37. A second criterion suggested was that of size; but there were large islands which were largely or completely uninhabited and small ones with dense populations which depended heavily upon the sea.
38. A third criterion put forward was the distance of an island from the mainland. In the case of island States and archipelagos, however, it was not possible to say in every case which island constituted the mainland.
39. A fourth criterion was the position of an island in relation to the coast of a foreign State. Reference had been made to an island situated within the territorial sea or on the continental shelf of a neighbouring State. However, in his delegation's view that begged the whole question. The island was entitled to a territorial sea of its own. The continental sea belonged to the island as much as to the neighbouring State. The real question was that of delimiting the territorial sea and the continental shelf between the two, and the same applied to the economic zone.
40. With respect to islands which had not yet attained independence, his delegation largely shared the view of the delegation of Trinidad and Tobago. So far as the dependent territories for which the United Kingdom Government was responsible were concerned, in most cases the principal reason for their continuing dependence was uncertainty about their economic viability. To deprive such territories of any right to an economic zone could only increase that uncertainty and make the attainment of independence more difficult. His delegation considered that the proposals in that sense would have the opposite effect to that which their sponsors presumably had in mind, and it could not support them.
41. The kind of detailed rules and principles proposed would inevitably bring about the very inequity which they purported to avoid. The existing law and State practice with regard to islands and their maritime spaces, reflected in proposals such as those in part A of document A/CONF.62/C.2/L.30, was perfectly adequate and should remain undisturbed. With respect to the question of delimitation of boundaries, the provisions of article 12 of the Convention on the Territorial Sea and the Contiguous Zone and article 6 of the Convention on the Continental Shelf, which laid down the three-part rule of agreement, special circumstances and median line were adequate and sufficiently flexible. Those rules already allowed for all the different circumstances existing: there was a risk in trying to do too much.
42. Mr. BENCHERKH (Algeria) said that his delegation had already given the essence of its position with regard to islands in its statement at the 37th meeting on archipelagic States. He therefore merely wished to endorse the arguments put forward by the representative of Tunisia when introducing the draft articles on the régime of islands (A/CONF.62/C.2/L.62) of which his delegation was a sponsor. He had noted with satisfaction the growing trend in favour of including in the future convention provisions which took account of the special circumstances of islands. With regard to islands lying in an enclosed or semi-enclosed sea which were neither islands nor archipelagic States, while his delegation had no intention of questioning the sovereignty of States over the different parts of their territory, including islands, it could not accept the attempt by some delegations to use that idea of sovereignty as a legal justification for the recognition of right to marine space over which the State already had rights as a continental coastal State, thus claiming double rights to those waters, both for itself and for the islands which were in fact part of its territory.

That argument would also lead to an unequal sharing of resources between coastal States in narrow seas. It was therefore unacceptable to the Conference and to the international community as a whole.

43. Any such delimitation must be done by bilateral or regional agreement according to principles of equity, taking account of special circumstances, in the interests of all the States concerned. That was a principal advantage of the draft articles in question, which he hoped would be carefully considered by the Committee and receive the support of many delegations.

44. Those considerations applied to narrow seas such as enclosed or semi-enclosed seas. More appropriate solutions based on the draft articles could be worked out for other circumstances, provided that such solutions were reasonable and took account of the overriding concept of the common heritage of mankind.

45. The future convention should ensure the preservation of the inalienable rights of peoples still under colonial domination in all fields, as proposed in draft article 5 of the document, and in accordance with the provisions of the Declaration of the Organization of African Unity on the issues of the law of the sea.

46. Mr. CASTAÑEDA (Mexico) said that the proposal in document A/CONF.62/C.2/L.58, of which his country was a sponsor, was not intended to prejudice in any way the interests of peoples that were subject to colonial domination but to stress that colonial status could not have a permanent legal basis but must be purely temporary. The principle of non-recognition of colonial domination should be as generally recognized as that of the non-recognition of the right to territorial acquisitions effected by force. The draft article expressed that principle and clearly stated that the occupying metropolitan Power had no right to the maritime spaces around those islands or to the resources thereof.

47. There was an immense diversity of island situations, as the United Kingdom representative had said, and it would be difficult, if not impossible, to draft specific regulations to cover them all. Therefore, the basic norm must reflect the provision in document A/CONF.62/C.2/L.30 that the marine space of an island must be measured in accordance with the same provisions as were applicable to other land territory. However, exceptions based on principles of equity could be accepted.

48. Mr. RASOLONDRABE (Madagascar) said that, as the representative of an island State, he was fully aware of the difficulty of distinguishing between an island State, an island and an islet. The draft articles in document A/CONF.62/C.2/L.62 were therefore aimed at giving clear definitions. There were three issues related to islands: sovereignty, maritime rights, and delimitation. With regard to the first two, there was no problem in the case of island States, but the rights of the inhabitants of islands under foreign domination or control must be clearly stated. Although the question of the remaining continental States under colonial domination was the most difficult and serious issue with which the Committee on decolonization had to deal, those States were now very few in number and most of that Committee's work was concerned with islands. His country supported the establishment in the future convention of the rights to the territorial sea and the economic zone not only of those islands which were under consideration by the Committee on decolonization but also of any other islands, however small, which were not yet economically and politically independent.

49. Delimitation was dealt with in draft article 2, which was very clear.

50. Mr. MALINTOPPI (Italy) said that, in the régime of islands, islands could not be deprived of their own territorial sea which was a constituent part of the territory of the State. The 1958 Geneva Convention on the Continental Shelf had also established the coastal State's rights to the sea-bed and

subsoil of submarine areas adjacent to the coasts of islands in the same way as of those adjacent to the coasts of its continental territory. Obviously, if States already exercised rights to the continental shelf of islands, those rights should be respected. A certain flexibility was called for in the provisions for the new concept of the economic zone and the duties and rights of States in that zone; that was legitimate since the Conference was engaged in developing progressive international law.

51. With regard to the delimitation between States of marine space which included islands, it was difficult to depart from the régime provided for by the 1958 Geneva Conventions. Endeavours had been made to establish lists of criteria to be followed in that delimitation or even to establish orders of priority among those criteria. Those proposals, however, tended to be arbitrary because they did not take account of the special circumstances of each case.

52. Finally, he would wait to study the proposals which, although they had just been explained by their sponsors, had not yet been circulated.

53. Mr. DE ABAROA Y GOÑI (Spain) said that in his delegation's view the following criteria should be taken into account in regulating the complex and difficult question of islands.

54. First, a generally acceptable definition of islands had to be established. That could be done by distinguishing islands from other geographical conformations which must also be defined with precision. Such a step would have the advantage of not including an over-general but rather a specific idea of islands in the future codification. In that connexion, he said that some of the proposals put forward contained elements that would be very useful in establishing the concept and legal régime to be applied to islands.

55. Secondly, if the future convention, following the 1958 codification, were to retain the assumption of "special circumstances" for delimitation, it would be necessary to specify the territories to which such special circumstances should apply. The mere presence of islands in a maritime space did not constitute *per se* a special circumstance; if it were so considered, the danger already existing in the imprecise idea of special circumstances would be intensified, and it would become extremely difficult for neighbouring States to negotiate on delimitation of maritime spaces close to islands.

56. Thirdly, an appropriate method must be found to solve the problem of the régime of islands. In his delegation's view the point of departure should be equal treatment for all parts of a State, whether continental, insular or archipelagic. Moreover the régime of islands must be based on the following fundamental principles: first, the territorial unity and integrity of the State, including the territorial waters and the air space above them; secondly, the indivisibility of the sovereignty of the State over its territory, continental or maritime; and lastly the sovereign equality of all States, great or small, insular or archipelagic, continental or "mixed".

57. Those general criteria would, in his delegation's view, provide a satisfactory solution for the delimitation of maritime spaces under the jurisdiction of neighbouring or opposite States and allow for adaptation in exceptional cases.

58. The CHAIRMAN announced that the discussion on item 19 had been concluded.

Transmission from the high seas

[Agenda item 24]

59. Mr. DUDGEON (United Kingdom) drew attention to document A/CONF.62/C.2/L.54 submitted by the nine States of the European Economic Community, and in particular to article 21 *ter*, which referred to co-operation in the repression of unauthorized broadcasting from the high seas. That article had been included in a working document on the high seas and was extremely relevant to the item before the Committee. His

delegation hoped that its provisions would be included in any further working document on the subject.

60. The CHAIRMAN agreed that that would be done.

61. Mr. BARSEGO (Secretary of the Committee) announced that 28 other delegations wished to join the sponsors of document A/CONF.62/C.2/L.42/Rev.1. They were: Algeria, Ar-

gentina, Burma, Brazil, Chile, Colombia, Cuba, Cyprus, Ecuador, El Salvador, Ghana, India, Iran, Jamaica, Libyan Arab Republic, Mauritania, Mauritius, Morocco, Nigeria, Panama, Peru, Philippines, Senegal, Trinidad and Tobago, United Republic of Cameroon, Uruguay, Venezuela and Yugoslavia.

The meeting rose at 5.45 p.m.

41st meeting

Friday, 16 August 1974, at 10.50 a.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Introduction of draft proposals

1. The CHAIRMAN observed that, in accordance with the Committee's wishes, the meeting had been convened in order to give delegations an opportunity to introduce draft proposals.

2. Mr. OLSZOWKA (Poland) introduced document A/CONF.62/C.2/L.26, which had been sponsored by the delegations of Bulgaria, the German Democratic Republic, the Soviet Union and Poland. The document contained draft articles on the territorial sea and dealt in particular with the nature and characteristics of the territorial sea, its breadth and delimitation, and the right of innocent passage.

3. Article 1 reaffirmed the sovereignty of coastal States over their territorial sea, and specified that all the resources in the territorial sea were under that sovereignty. It would be noted that, under the draft articles, coastal States exercised their full sovereignty, subject only to recognized restrictions, such as the right of innocent passage. Comparison with the draft articles concerning the economic zone submitted by the same sponsors together with the delegations of the Byelorussian SSR and the Ukrainian SSR (A/CONF.62/C.2/L.38) revealed a distinction between the proposed rights to be granted to the coastal State in the territorial sea, on the one hand, and in the economic zone, on the other. Article 1 of the proposal in document A/CONF.62/C.2/L.26 followed the pattern of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone,¹ which could be considered as reflecting general rules of international law.

4. The sponsors of the draft articles had taken into account the practice of the large majority of States, and accordingly article 2 authorized each State to determine the breadth of its territorial sea within a maximum limit of 12 nautical miles. That breadth, he believed, represented a fair balance between the interests of coastal States and those of the international community.

5. The sponsors considered that the complex and highly technical problem of measuring the breadth of the territorial sea had been satisfactorily resolved in the 1958 Geneva Convention. Thus they proposed that articles 3 to 13 of that Convention should be reproduced without any change. The different systems of drawing baselines provided for in that Convention were generally recognized and had been referred to by the General Assembly in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof.² The sponsors did not, however, wish to preclude the possibility of filling certain gaps in the Geneva Convention, particularly in relation to the baselines of oceanic archipelagos.

6. The main part of document A/CONF.62/C.2/L.26 dealt with the right of innocent passage through the territorial sea. Generally speaking, the draft articles were more elaborate than the provisions of the Geneva Convention on the Territorial Sea and the Contiguous Zone, and the concept of innocent passage and the ways in which it would be translated into practice were defined more precisely. Thus, all the acts which were to be incompatible with the right of innocent passage were specified in article 16, paragraph 2. Furthermore, in paragraph 3 of that article, as in the Geneva Convention, foreign fishing vessels were required to observe the laws and regulations promulgated by coastal States, and, in paragraph 4, submarines were required to navigate on the surface and to show their flag.

7. Under article 19, the coastal State was authorized to take the necessary steps in its territorial sea to prevent non-innocent passage. Article 20 reaffirmed the right of a coastal State to adopt laws and regulations in respect of innocent passage and, at the same time, stipulated that such laws and regulations must comply with the provisions of the convention as a whole and other rules of international law. It further specified the different areas in which the coastal State could adopt legislation and regulations.

8. Generally speaking, the sponsors of the draft articles had been at pains to strike a balance between the interests of the coastal State and those of international navigation. The coastal State was required not to hamper innocent passage or to discriminate between foreign ships and must ensure that any navigational hazards of which it had knowledge were adequately publicized.

9. Although the sponsors were convinced that the main provisions of the draft articles constituted an equitable and viable solution to the various problems concerning the territorial sea, they were prepared to consider any suggestions or amendments which would improve them and make them more generally acceptable.

10. Mr. RYAN (Australia) introduced the proposals contained in document A/CONF.62/C.2/L.57. He had asked for the draft article, which concerned highly migratory species, to be included in the revised working paper as a distinctive trend. The article stressed the need for international and regional co-operation in matters relating to the conservation and management of highly migratory species. The organizations envisaged in paragraph 1 would issue regulations governing the conservation and management of any given species with the object of ensuring rational exploitation of the species within its maximum sustainable yield. The regulations could include the establishment of national quotas. The provision contained in paragraph 4 (a) was very important to many coastal States. If a coastal State preferred to build up a short-range fishing fleet to fish for highly migratory species, it should be protected against competition from long-distance fishing fleets that had the advantage of being able to follow the fish wherever they went.

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

²General Assembly resolution 2660 (XXV).