

Document:-
A/CN.4/30

**Regime of the High Seas – Questions under Study by other Organs of the United Nations
or by Specialized Agencies**

Topic:
Law of the sea - régime of the high seas

Extract from the Yearbook of the International Law Commission:-
1950 , vol. II

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from those of the United States Proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Chilean Declaration confirms and proclaims the national sovereignty of Chile over the continental shelf and over the seas adjacent to the coast of Chile outside the generally accepted limits of territorial waters, and (2) the Declaration fails, with respect to fishing, to accord appropriate and adequate recognition to the rights and interests of the United States in the high seas off the coast of Chile. In view of these considerations, the United States Government wishes to indicate to the Chilean Government that it reserves the rights and interests of the United States so far as concerns any effects of the Declaration of 25 June 1947, or of any measures designed to carry that Declaration into execution.

The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Chilean claims with reference to the Antarctic Continent or other land areas.

The Government of the United States of America is similarly reserving its rights and interests with respect to decrees issued by the Governments of Argentina and Peru which purport to extend their sovereignty beyond the generally accepted limits of territorial domain.

Claude G. BOWERS

(3) *Note to the Government of Argentina*

Buenos Aires, 2 July 1948.

At the direction of my Government I have the honor to state that the United States Government has carefully studied the Declaration of the President of the Argentine Nation of 11 October 1946 concerning the industrial utilization of the resources of the continental shelf and the coastal seas, together with Decree No. 1386 of 24 January 1944 which the Declaration amplifies. The Declaration cites the Proclamations of the United States of 28 September 1945 in the Preamble. My Government is accordingly confident

that His Excellency, the President of the Argentine Nation, in formulating the Declaration, was actuated by the same long-range considerations with respect to the wise conservation and utilization of natural resources as motivated President Truman in proclaiming the policy of the United States relative to the natural resources of the sub-soil and sea bed of the continental shelf and its policy relative to coastal fisheries in certain areas of the high seas. The United States Government, aware of the inadequacy of past arrangements for the effective conservation and utilization of such resources, views with sympathy the considerations which led the Argentine Government to formulate its Declaration.

At the same time, the United States Government notes that the principles underlying the Argentine Declaration differ in large measure from those of the United States Proclamations and appear to be at variance with the generally accepted principles of international law. In these respects, the United States Government notes in particular that (1) the Argentine Declaration decrees national sovereignty over the continental shelf and over the seas adjacent to the coasts of Argentina outside the generally accepted limits of territorial waters, and (2) the Declaration fails, with respect to fishing, to accord recognition to the rights and interests of the United States in the high seas off the coasts of Argentina. In view of these considerations, the United States Government wishes to inform the Argentine Government that it reserves the rights and interests of the United States so far as concerns any effects of the Declaration of 11 October 1946 or of any measures designed to carry that Declaration into execution.

The reservations thus made by the United States Government are not intended to have relation to or to prejudge any Argentine claims with reference to the Antarctic Continent or other land areas.

I may state for Your Excellency's information that the United States Government is similarly reserving these rights and interests with respect to decrees of the Governments of Chile and Peru which purport to extend sovereignty beyond the general accepted limits of territorial waters.

JAMES BRUCE

DOCUMENT A/CN.4/30

Questions under study by other organs of the United Nations or by Specialized Agencies (Memorandum presented by the Secretariat)*

[Original Text: English]
[23 June 1950]

1. The following questions dealt with in the Report on the High Seas (A/CN.4/17) are or have been recently studied by various organs of the United Nations, Specialized Agencies, or special international conferences. It would be for the International Law Commission to consider whether it would deem it necessary to deal with these questions.

2. *Safety of Life at Sea.* In compliance with a resolution of the Economic and Social Council, a Preparatory Committee of Experts to Consider the Co-ordination of Activities in the Fields of Aviation, Shipping and Telecommunications with regard to Safety of Life was convened at London in January and February 1948 (E/

CONF.4/8). It recommended the co-ordination of activities of the following organizations: the International Civil Aviation Organization, the Inter-Governmental Maritime Consultative Organization, the World Meteorological Organization, and the International Telecommunication Union.

The Convention on the Inter-Governmental Maritime Consultative Organization, signed at Geneva, 6 March 1948, provides that the Organization shall "encourage the general adoption of the highest practicable standards in matters concerning maritime safety and efficiency of navigation". A special Maritime Safety Committee is established by the Convention to consider any matter relating to "aids to navigation, construction and equipment of vessels, manning from a safety standpoint, rules for the prevention of collisions, handling of dangerous cargoes, maritime safety procedure and requirements,

* The substance of this Memorandum was communicated by the Secretariat to the Rapporteur, M. François, after the receipt of his report.

hydrographic information, logbooks and navigational records, marine casualty investigation, salvage and rescue, and any other matters directly affecting maritime safety" (article 29). The Assembly of the Organization is empowered "to recommend to members for adoption regulations concerning maritime safety, or amendments to such regulations, which have been referred to it by the Maritime Safety Committee through the Council" (article 16).

The rules relating to the safety of life at sea have been codified recently at a special technical conference held in London, 23 April—10 June 1948 (for the Final Act of the Conference, see *British Parliamentary Papers*, Cmd. 7492). In the International Convention for the Safety of Life at Sea, prepared by this Conference, the parties undertake to give effect to the regulations annexed thereto, and to promulgate all the necessary laws, decrees, orders and regulations. They undertake also to communicate to the Inter-Governmental Maritime Consultative Organization "the text of laws, decrees, orders and regulations which shall have been promulgated on the various matters within the scope of the present Convention". The Regulations annexed to the Convention deal with the inspection and survey of ships and the issuance of safety certificates; construction of ships and fire protection; life-saving appliances; radiotelegraphy and radiotelephony; safety of navigation, meteorological services, ice patrol, distress signals and life-saving signals; and carriage of grain and dangerous goods. These Regulations may be amended by a special procedure, in which an important part is played by the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.

A separate annex to the Final Act of the London Conference contains the International Regulations for Preventing Collisions at Sea, which will come into force "when substantial unanimity has been reached" as to their acceptance. These Regulations deal with steering and sailing rules, and with lights, whistles and fog-horns.

3. *Fisheries*. The Food and Agriculture Organization of the United Nations is empowered by article I of its Constitution to promote and, where appropriate, to recommend national and international action with respect to "the conservation of natural resources and the adoption of improved methods of agricultural production". Article XVI of the Constitution interprets the term "agriculture" as including fisheries and marine products. F.A.O. established a special division on fisheries which made a survey of world fisheries. An Indo-Pacific Fisheries Council was established by the Fisheries Conference at Baguio in 1948 for the development and proper utilization of living aquatic resources in the Indo-Pacific area. Similar fisheries councils are planned for other regions (E/1574, p. 4). A monthly *Fisheries Bulletin* and a *Yearbook of Fisheries Statistics* are published by F.A.O. While the special semi-annual *International*

Journal of Law and Legislation Relating to Food and Agriculture has been discontinued, the projected *World Yearbook of Legislation Concerning Food and Agriculture* will constitute continuance of the *International Yearbook of Agricultural Legislation* of the International Institute of Agriculture.

Special bipartite fisheries commissions have been established by the United States with Canada, Mexico and Costa Rica, and the establishment of a North-west Atlantic Fisheries Commission is envisaged by a multi-partite convention of 8 February 1949 (*British Parliamentary Papers*, Misc. No. 4 (1949), Cmd. (7658)).

4. *Whaling*. The Convention for the Regulation of Whaling, of 2 December 1946 (U.S. Treaties and Other International Acts Series, No. 1849), established an International Whaling Commission, and provides in No. 15 of the Schedule annexed to the Convention that "copies of all official laws and regulations relating to whales and whaling and changes in such laws and regulations shall be transmitted to the Commission".

5. *Pollution*. This question was considered by the Transport and Communications Commission of the Economic and Social Council at its fourth session, Lake Success, March-April, 1950. On the basis of a report by the Secretary-General (E/CN.2/68), the Commission noted that "the Inter-Governmental Maritime Consultative Organization (IMCO), when it has started functioning, would be the competent agency to handle this subject" and proposed the adoption by the Economic and Social Council of a resolution instructing the Secretary-General to request the views of Members of the United Nations on the following points (E/CN.2/L.1/Rev.1):

"(a) Whether, pending the establishment of the Inter-Governmental Maritime Consultative Organization, preliminary action should be taken;

"(b) If so, what would be the best procedure to follow;

"(c) In particular whether the convening of a meeting of competent governmental experts would be the appropriate procedure;

"(d) Whether the Draft Convention on the Pollution of Sea Water by Oil prepared in 1935 under the auspices of the League of Nations could serve as a working basis for the consideration of the problem;

"(e) Whether the scope of the examination of the problem should be extended to cover the pollution of sea water by atomic waste from fuel which may be used by ships;

"(f) Whether they would wish to give priority to the consideration of any one of the several consequences of the pollution of sea water."

It is expected that the Economic and Social Council will consider this resolution at its next session, and if it is adopted further action in this field will depend on the tenor of the replies from Member Governments.