

Document:-  
**A/CN.4/SR.255**

**Summary record of the 255th meeting**

Topic:  
**Law of the sea - régime of the territorial sea**

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article 6, paragraph 1, reading "the sea areas lying within these lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters". The words "subject to the régime of internal waters" lent themselves almost irresistibly to the interpretation that the areas of the sea enclosed by the straight base lines were fully assimilated to the régime of internal waters and that the coastal State could therefore interfere at its discretion with freedom of navigation in those waters. Any such result could not be admitted.

34. It was essential, for reasons of substance, to clarify the term "internal waters". The term did not carry a very precise meaning. There seemed to him to be three types of waters that might be relevant to the discussion: (1) the territorial sea; (2) the waters behind the straight base lines, which could perhaps be described as internal waters; and (3) inland waters properly so-called—namely, rivers, etc.

35. When the Commission came to discuss right of passage, he would propose the extension of that right to internal waters. In the Fisheries case judgement, large stretches of what had hitherto been high seas had been transformed into internal waters. Although the Court had only been really concerned with fisheries, its ruling lent itself to the interpretation that the waters in question were no longer subject to the rule of the freedom of the seas in any respect whatsoever. That was a result going beyond the subject of the dispute as originally submitted to the Court—namely, whether the Norwegian decree delimiting Norwegian waters for the purpose of fisheries was in accordance with international law.

36. For those reasons, he would propose that the last phrase should be deleted and replaced by the words "the sea areas lying within these lines must have a sufficiently close connexion with the land domain." No reference would be made to the régime of internal waters.

37. Mr. HSU formally proposed that the Commission postpone all discussion of article 6 until it had discussed article 4.

38. Mr. SPIROPOULOS said he agreed that, should the Commission decide on a twelve-mile limit for the breadth of the territorial sea, that would make a considerable difference to the relevance of the subject matter of article 6.

39. Mr. GARCÍA-AMADOR supported Mr. Hsu's proposal.

40. Mr. FRANÇOIS, Special Rapporteur, said that a 200-mile limit for the territorial sea was imaginary. Practically, the only real choice lay between the three-mile limit and the system of allowing States to fix their own limits, provided always that they did not exceed twelve miles. The system of straight base lines would lead in some cases to advancing the outer limit of the territorial sea by as much as five miles in places. It therefore followed that the relative importance of article 6 was not materially diminished even if it were

assumed that the Commission would go to the extreme limit of allowing States to define their territorial seas as extending up to twelve miles in breadth.

41. Mr. Lauterpacht had raised an important question. The waters behind the straight base lines would become internal waters and would as such be subject to a special régime. It was therefore extremely important to define the limit of those waters accurately, though that was an entirely different question from the breadth of the territorial sea.

42. The CHAIRMAN put to the vote Mr. Hsu's proposal that the discussion of article 6 should be postponed until the Commission had dealt with article 4.

*The proposal was rejected by 5 votes to 3, with 4 abstentions.*

The meeting rose at 1 p.m.

## 255th MEETING

Friday, 25 June 1954, at 9.45 a.m.

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Chairman: Mr. A. E. F. SANDSTRÖM

Rapporteur: Mr. J. P. A. FRANÇOIS

#### Present:

*Members:* Mr. A. AMADO, Mr. R. CÓRDOVA, Faris Bey el-KHOURI, Mr. F. GARCÍA-AMADOR, Mr. S. HSU, Mr. H. LAUTERPACHT, Mr. R. PAL, Mr. G. SALAMANCA, Mr. G. SCELLE, Mr. J. SPIROPOULOS, Mr. J. ZOUREK.

*Secretariat:* Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

**Régime of the territorial sea (item 2 of the agenda) (A/CN.4/53, A/CN.4/61 and Add. 1, A/CN.4/71 and Add. 1 and 2, A/CN.4/77)<sup>1</sup> (*continued*)**

CHAPTER II: LIMITS OF THE TERRITORIAL SEA (*continued*)

Article 6: Straight base line (A/CN.4/77)<sup>2</sup> (*continued*)

1. The CHAIRMAN called upon Mr. Lauterpacht to proceed with his remarks.

<sup>1</sup> *Vide supra*, 252nd meeting, para. 54 and footnotes.

<sup>2</sup> For the English text of the article, *vide supra*, 254th meeting, footnote 7.

2. Mr. LAUTERPACHT recalled that at the previous meeting he had proposed two purely stylistic changes<sup>3</sup> in the wording of paragraph 1. He also suggested that the last nine words of the paragraph ("to be subject to the régime of internal waters") should be deleted.<sup>4</sup> The Commission would thus avoid prejudging what régime was to be applicable to the stretches of water enclosed between the low-water mark and the straight base line. It might well be considered that the area in question should not be included in the internal waters, and should form a separate zone, distinct both from the territorial sea and from the internal waters properly so-called. It was perhaps with the purpose of suggesting such a discrimination that in the English text the term *eaux intérieures* had been rendered by the term "internal waters" in the last line of paragraph 1, and by "inland waters" in the last sentence of paragraph 2.

3. Paragraph 2 laid down the two conditions to be satisfied by straight base lines. Firstly, the length of the base line should not exceed ten miles; secondly, no point on such lines should be further than five miles from the coast. The first condition would only apply "as a general rule", and exceptions would be admissible but the Special Rapporteur did not give a precise indication of the cases to be treated as exceptions. The second rule apparently admitted of no exception; it was therefore desirable to say so expressly in the article. Paragraph 2 also clearly showed that there was no relation between the maximum permissible length of the straight base lines and the limit of the territorial sea; the Commission should therefore not hesitate to adopt article 6, for fear that it would be prejudicing the question of the breadth of the territorial sea. He added that the last sentence of paragraph 2 appeared unnecessary.

4. Lastly, he asked the Special Rapporteur if, under the provisions of his draft, States would be required to give their reasons for drawing straight base lines in general or only in the case of straight base lines measuring more than ten miles. As a general rule, did the Special Rapporteur propose that the International Court should have compulsory jurisdiction over exceptions to the low-water line rule? If so, an express stipulation to that effect should be inserted either in article 6 or in a separate article to be added at the end of the draft regulation.

5. Mr. FRANÇOIS, Special Rapporteur, replied that there had to be justification for straight base lines in all cases. The onus was on the State employing the method of drawing straight base lines to prove that it was proper to do so because its coast was deeply indented; that was true even if the straight base lines did not exceed ten miles in length.

6. With regard to the five-mile maximum distance between all points on straight base lines and the coast, he did not feel sure that Mr. Lauterpacht's interpretation

agreed with the intentions of the committee of experts which had met at The Hague from 14 to 16 April 1953. The experts seemed rather to have meant the five-mile rule to apply only where a straight base line exceeded ten miles;<sup>5</sup> a different system was, however, conceivable and Mr. Lauterpacht had suggested alternatives.

7. He agreed that the new idea of base lines might lead to the formation of a new zone distinct from internal waters in the sense in which the term had been construed in the past. The question of the right of passage in that zone would then arise; neither the experts nor he himself had considered that issue but the Commission might do so at a later stage. The essential problem, for the time being, was to decide if the actual principle of straight base lines was acceptable.

8. The CHAIRMAN recalled that, at the previous meeting, Mr. François had explained that the maximum permissible length of ten miles for straight base lines had been chosen by the committee of experts as being twice the range of vision of an observer on the bridge of a ship. Such a criterion was arbitrary and without practical value, not only because in northern regions there was no daylight for six months, but also because in many areas fogs were frequent. The real intention behind the straight base lines was that the outer limit of the belt of territorial sea should not be excessively tortuous and irregular, as the Special Rapporteur himself admitted;<sup>6</sup> if one wished to arrive at that result, the maximum permissible length of the straight base line should not be so short. In its decision in the Fisheries case dated 18 December 1951,<sup>7</sup> the International Court had acknowledged that certain States had adopted, for the entrance to bays included in internal waters, distances well in excess of ten miles and that consequently the ten-mile rule had not yet the authority of an established rule of international law. He considered that progress lay along that more liberal line of thought; and therefore suggested the following amendments to article 6:

(1) Paragraph 1 should be replaced by:

"1. Where a coast is deeply indented or cut into or there is an archipelago comprising a considerable number of islands in its immediate vicinity, the base line may be independent of the low-water line if as a consequence the perimeter of the territorial sea is simplified to a reasonable extent."

(2) Paragraph 2 should be deleted.

9. He would further suggest that articles 5 and 6 should be amalgamated into a single article, so as to avoid drawing a distinction between the normal base line

<sup>3</sup> *Vide supra*, 254th meeting, para. 32.

<sup>4</sup> *Ibid.*, paras. 33-36.

<sup>5</sup> See the report of the committee of experts, paragraph 3 of the answer to question IV. The report is the annex to document A/CN.4/61/Add.1, published in *Yearbook of the International Law Commission, 1953*, vol. II.

<sup>6</sup> See comment to article 7 in A/CN.4/77.

<sup>7</sup> *I.C.J. Reports 1951*, p. 116.

constituted by the low-water line, and straight base lines which would be exceptional.

10. Mr. SCALLE mentioned the question of islands. He asked whether, for the purpose of base lines drawn from islands, the latter had to be situated less than five miles from the coast.

11. The CHAIRMAN said in that connexion that in the Fisheries case, the Government of the United Kingdom had contended that drying rocks and shoals could only be used as points from which to draw base lines if they were less than four miles away from permanently dry land, but the Court did not have to consider that question.

12. Mr. FRANÇOIS, Special Rapporteur, said that he personally would prefer that no island should serve as a point from which to draw straight base lines, if the distance from the coast exceeded five miles.

13. The CHAIRMAN read an extract from the judgement in the Fisheries case. The Court had acknowledged the principle that the belt of territorial waters should follow the general direction of the coast. From that principle there necessarily followed certain criteria for the delimitation of the territorial sea. Hence, in the case of deeply indented coasts, it was not possible to observe the maximum ten-mile rule.

14. Mr. FRANÇOIS, Special Rapporteur, pointed out that according to the Committee of Experts in many cases it would be impracticable to establish the general direction of the coast. Accordingly, it was necessary to apply the system of lines of a maximum length.

15. Mr. CORDOVA said that perhaps the general direction of the coast might be determined every five miles.

16. Mr. SCALLE said that the term "general direction of the coast" should be construed as meaning the direction of the whole coast-line of a State. In the case of Norway, for example, the direction would be from north-east to south-west.

17. Mr. LAUTERPACHT said that if the general direction of the coast were to be taken as the only criterion, it would be possible to draw straight base lines from headland to headland of as much as forty miles in length or more; the length of straight base lines might be even greater in the case of islands, a matter which had not yet been examined; a vast area situated on the inside of the base line would thus be taken away from the high seas. He drew attention to the words in paragraph 1: "must be sufficiently closely linked to the land domain". In his opinion, the Commission should establish precise rules on that point, and lay down a maximum length and a maximum distance from the coast, as the Special Rapporteur had done.

18. Mr. SCALLE thought that the maximum distances laid down in the draft were too short; in the case of islands, they would tend to create an undesirable multi-

plicity of zones of territorial waters. The idea of a base line conforming with the general direction of the coast was a convenient starting point. In the Fisheries case, the International Court had adopted a very liberal point of view, and the Commission should emulate it. The Commission should endeavour to extend the limits of the territorial sea; among other things such a course would have the advantage of making the problem of the continental shelf less acute.

19. Mr. CORDOVA said that the principle of the ten-mile maximum permissible length for straight base lines and that of the five-mile maximum distance from the coast were acceptable, subject to exceptions where justified.

20. Mr. SCALLE said he would agree with Mr. Córdova if the principle of compulsory arbitration were accepted for the purpose of determining the base line of the territorial sea; in that case, it would not even be necessary to lay down maximum distances. For the time being, he would favour authorizing the drawing of straight base lines from headland to headland up to a length of twenty miles, provided that all points in such lines were no more than ten miles distant from the coast.

21. Mr. ZOUREK said that all the difficulties originated in the Special Rapporteur's proposal that the base line of territorial waters should be the low-water line, and that straight base lines should be exceptions to that general rule. The low-water line, however, was only practicable in the case of straight coast lines, which were very rare. Even in the case of only slightly indented coasts, the parallel-line method would give the territorial waters an outer limit in a zig-zag shape which was not practical for shipping. He realized that article 7<sup>8</sup> provided for a new method of determining the outer limit of the territorial sea; but the Commission had to take into consideration the special needs and particular conditions of each coastal State and leave those States completely free to choose whichever method they preferred.

22. The ten-mile rule—which would recur in connexion with bays and archipelagoes—might well prove the stumbling block of the whole draft regulation. It was not without reason that many States had for long been drawing much longer straight base lines, and freedom of navigation had not suffered. He was also surprised that the Commission should be so rigid in its attitude to the territorial sea, while it accepted the creation of much vaster contiguous zones in which coastal States had certain rights in such matters as fishing, customs and health inspection.

23. He could not agree to the five- or ten-mile distances proposed by the Special Rapporteur, for such distances were not provided for in international law and even if regarded as *de lege ferenda* they were quite arbitrary. For all those reasons he proposed the following amendment:

<sup>8</sup> In A/CN.4/77.

(1) That paragraph 1 should be replaced by the words: "The coastal state shall be free to adopt as the base line straight lines joining appropriate points on the low-water line. In any such case the breadth of the territorial waters shall be measured from the lines so drawn."

(2) That paragraph 2 should be deleted.

(3) That in paragraph 3 the word "justified" should be replaced by the word "adopted".

24. Mr. FRANÇOIS, Special Rapporteur, was surprised that Mr. Scelle, who had always defended the principle of the freedom of the seas, should criticize the proposals contained in his (the Special Rapporteur's) report as not liberal enough. The Committee of Experts had above all wished to avoid an unwarranted extension of the area of inland waters; in any case the Commission's members were not experts in marine navigation, and for the moment, its only task was to propose that Governments should adopt a maximum permissible length so as to avoid abuses, and to ask Governments for comments.

25. He recalled in that connexion that as a rule seafaring men were not in favour of straight base lines. Unless they had charts indicating the base lines in question, they would be unable to calculate their position by reference to the limit of territorial and internal waters. That was indeed the reason why the committee of experts had stressed that the base lines should be entered on charts and maps.

26. In reply to Mr. Zourek, he said that if complete freedom were to be left to the States there would be no point in formulating rules of international law. The matter of the territorial sea concerned not merely the interests of one State; it was a possible source of abuse and the Commission should endeavour to secure acceptance of a rule applicable to all countries. If the Commission wished to codify international law, or establish its rules by means of conventions, it could not leave unlimited discretion to Governments in all matters.

27. Mr. GARCIA-AMADOR inquired from the Special Rapporteur whether articles 6 and 12<sup>9</sup> were not partly contradictory. Article 12 mentioned, with reference to groups of islands, straight lines not exceeding five miles, whereas article 6 allowed straight base lines up to ten miles in length.

28. Mr. FRANÇOIS, Special Rapporteur, replied that that point could more usefully be considered when the Commission discussed the problem of islands in connexion with article 12.

29. Mr. SCELLE, replying to Mr. François, said that he was indeed a supporter of the freedom of the seas. The open sea was public international domain and in any system of law, at any level, there had inevitably to be public domain. For that very reason that fundamental

principle should not be jeopardized by an excessively uncompromising attitude. He agreed that a limit should be laid down for the breadth of the territorial sea, but that limit should make allowance for recent tendencies and for the needs of modern life, and should not be too narrow. Ideally, of course, an international judicial authority should define the line in each particular case.

30. Mr. PAL thought the Commission was attempting to impose uniformity where none existed and where perhaps none was possible. The International Court had emphasized that no hard-and-fast rule could be applied. Every case had to be treated on its individual merits. The various possible cases would be so different from each other that it would not even be possible to consider the rules governing them as exceptions to any one general rule.

31. The suggestions made by the committee of experts for a maximum length of ten miles and a maximum breadth of five failed to take into account the existing diversity of conditions and did not contribute to the co-ordination of the many different rules in existence. In view of the prevailing diversity of conditions and the different rules applied in each particular case, the States concerned could hardly be expected to accept a system as rigid as the one proposed, merely on the grounds that it would introduce uniformity. Quite possibly there was no single solution to the problem of the great diversity at present obtaining in that sphere.

32. The base line should only be used for the purpose of determining the outer limits of the territorial sea, and the Commission should not inquire into the question of the law applicable to internal waters.

33. He proposed that only the first two sentences of paragraph 1 of article 6 should be retained, subject to redrafting, and that paragraph 2 should be deleted.

34. Mr. ZOUREK said that he had never claimed unlimited freedom for States for the purpose of determining the breadth of territorial waters. He had merely said that States should be free to take as the base line either the line of low-water mark or the straight lines proposed by the Special Rapporteur. The latter had restated the arguments of the committee of experts against that right of choice; but surely the Commission had every right to reconsider the experts' conclusions, particularly as the committee of experts had been a purely private body, constituted unilaterally, and as the question at issue was not one which could be left to experts, for the final decision lay with the Governments.

35. The CHAIRMAN pointed out that in order to accomplish the technical task entrusted to them, the experts had first to define their objective. That objective might have certain legal aspects on which the Commission should give its opinion. Actually, the principle of the freedom of the seas, which had perhaps influenced the experts, was not so much a matter for them as for the Commission.

<sup>9</sup> *Ibid.*

36. Mr. HSU thought that the detailed regulations laid down in article 6, paragraph 2, would probably only be acceptable to the few countries which fix the breadth of their territorial sea at three miles—namely, a few European States, the countries of the British Commonwealth and countries which had only recently emerged from European rule. The last-mentioned would, on becoming aware of their national interests, probably abandon the three-mile limit. The Commission could not work for only a small group of States; it had to draft texts which would be valid for all. It was, indeed, necessary to clear up the existing chaotic situation, but for that purpose the Commission would have to agree on a rule that was reasonable.

37. Mr. AMADO said that the Commission should first make up its mind on the following two points: First, did the decision of the Court in the Fisheries case constitute, as the Special Rapporteur said in his commentary to article 6, a statement of the law in force? Secondly, should the Commission follow the Special Rapporteur's example and supplement the decision of the Court by the comments of the committee of experts?

38. If paragraph 2 was put to the vote at that stage of the debate, he would be obliged to vote against it.

39. Mr. CORDOVA thought the solution proposed by the Chairman was dangerous for it gave coastal States absolute freedom to decide what was "reasonable" and what was not, and also to draw the base line as they saw fit. The Special Rapporteur's text had the advantage of being an exact statement of the general rule and also of the exception to it, while yet not leaving too broad an expanse of water between the coast and the beginning of the territorial sea.

40. Mr. LAUTERPACHT expressed some surprise at Mr. Pal's statement that the Committee of Experts had not had all the necessary data at its disposal. It implied no disrespect for the Commission to suggest that with regard to expert knowledge of facts it ought to defer to experts.

41. Mr. PAL pointed out that the experts themselves had emphasized that the uniform system proposed did not take into account existing diversity. They had proposed the ten- and five-mile limits as an ideal solution without attempting to co-ordinate existing rules. Certain States might interpret their proposal as a tyrannical attempt to impose uniformity. Where there existed differences in the configuration of the various coastlines and in the justified special interests of the coastal States, any attempt to impose uniformity would make a just solution of the problem impossible.

42. Mr. LAUTERPACHT said there was every reason to believe that the experts' report was based on fact, and the Commission should not, unless it had excellent reasons for doing so, depart from the unanimous opinion of the experts and the Special Rapporteur. The Chairman had said that the experts had allowed themselves to be influenced by the principle of the

freedom of the seas. It would be more exact to say that they had combined their own recognition of that principle with a thorough knowledge of the facts.

43. Several members of the Commission had proposed that only general principles should be stated, and that no detailed regulation should be drafted. Such an approach would be in direct conflict with the terms of reference of the Commission, which had been instructed to draft detailed rules. The International Court of Justice itself had done more than proclaim mere general principles; it had formulated certain general tests such as that of the general direction of the coast, the economic interests of the population, long usage, the realities of the situation, and so on. It was the Commission's function to express those principles in more concrete terms.

44. In reply to Mr. Amado, he said that the Commission should respect the decision of the International Court, which in that respect had not so much applied the law in force as prepared its development. Before the Court had given its judgement, the most generally accepted opinion had been that the limit of the territorial sea ran parallel to the coast. It was not a universally accepted opinion, but if universality were to be made a condition of the validity of rules of international law there would be very few rules left.

45. He pointed out that the adoption of Mr. Scelle's suggestions would produce a much more serious situation than that caused by the creation of the continental shelf, and would be a disservice to the principle of the freedom of the seas.

46. The Commission had both the right and the duty to examine the figures submitted to it and should leave no room for vagueness.

47. The CHAIRMAN pointed out that if the Commission was not to depart without good reason from the opinion expressed by the experts and the Special Rapporteur, it had to be equally careful in rejecting the solutions of the International Court of Justice. It was premature to express the ideas of the Court in definite terms. First the Commission had to decide whether it should draft a clause in flexible terms—which was his own preference—or a more elaborate provision on the lines proposed by Mr. Lauterpacht. While admittedly his own solution would leave the initiative to States, their decisions would always be open to judicial review.

48. Mr. AMADO said he had not claimed that the Court's decision represented a statement of the law in force. He had merely said that the Commission should first decide if in fact it did. Secondly, he asked if Mr. Lauterpacht thought that the Court's decision contained only considerations of a general nature or as much precise information as was available on the subject.

49. Mr. HSU said that if the Commission was unable to agree on a definite rule, it should rather drop article 6 altogether.

50. Mr. CORDOVA said that he had voted in favour of article 5 which left States a certain latitude, subject, however, to a precise rule. Consequently, it would be illogical to allow the coastal State complete freedom of choice in the exceptional case referred to in article 6. He was unable to agree with the proposals of either Mr. Pal or the Chairman. It would be impossible to define with any precision the outer limits of the territorial sea, if the line where it began was not clearly established.

51. The CHAIRMAN pointed out that even the Special Rapporteur's text allowed States a certain latitude, for ten miles was only proposed as a maximum length.

52. Mr. LAUTERPACHT said the last remark supported his view, for it showed that the Special Rapporteur's proposals were not so rigid as had been alleged.

53. In reply to Mr. Amado he said that the Court's decision probably went beyond the law in force. In view of the situation with which the Court had been confronted, that did not imply a criticism of the decision. Unless it admitted of exceptions, the coastline principle was possibly too rigid. But it was a mistake to give those exceptions the dignity of a governing rule. No such result could properly be read into the Court's judgement, although the generality of its language lent itself to misinterpretation. With regard to Mr. Amado's second question, he agreed that the Court's decision was so general that it could not yield any practical rules for action. That was precisely the criticism which the judgement had encountered in a number of countries. The Court had left the matter in some uncertainty, and it was the Commission's function to dispel that uncertainty.

54. He was glad to note that Mr. Hsu did not object to the principle embodied in paragraph 2, but only to the form in which the provision was drafted.

The meeting rose at 1 p.m.

## 256th MEETING

Monday, 28 June 1954, at 4.30 p.m.

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*Chairman*: Mr. A. E. F. SANDSTRÖM

*Rapporteur*: Mr. J. P. A. FRANÇOIS

### *Present*:

*Members*: Mr. G. AMADO, Mr. R. CORDOVA, Faris Bey el-KHOURI, Mr. F. GARCÍA-AMADOR, Mr. S. HSU, Mr. H. LAUTERPACHT, Mr. R. PAL, Mr. C. SALAMANCA, Mr. G. SCELLE, Mr. J. SPIROPOULOS, Mr. J. ZOUREK

*Secretariat*: Mr. Yuen-li LIANG (Director of the Division for the Development and Codification of International Law, and Secretary to the Commission).

### Filling of casual vacancy in the Commission

1. The CHAIRMAN announced that at a private meeting the members of the Commission had decided to elect Judge Douglas L. Edmonds a member of the Commission, to fill the casual vacancy caused by the resignation of Judge John J. Parker, who had been elected to the Commission by the General Assembly at its eighth session.<sup>1</sup>

### Date and place of the seventh session

2. The CHAIRMAN said that at a private meeting the members of the Commission had taken a preliminary decision to hold the seventh session at Geneva, for a period of ten weeks starting on 20 April 1955, and to consult with the Secretary-General concerning that preliminary decision.

**Régime of the territorial sea (item 2 of the agenda)**  
A/CN.4/53, A/CN.4/61 and Add. 1, A/CN.4/71  
and Add. 1 and 2, A/CN.4/77)<sup>2</sup> (continued)

### CHAPTER II: LIMITS OF THE TERRITORIAL SEA (continued)

#### Article 6: Straight base line (A/CN.4/77)<sup>3</sup> (continued)

3. Mr. PAL said that it was impossible to lay down a rigid rule fixing the length of the straight base line at five or ten miles. Article 6 should be as flexible as possible. In certain exceptional cases the length of the straight base line might well exceed ten miles and in those cases the length should be a "reasonable" one. He thought that the proposals of the Chairman<sup>4</sup> and Mr. Lauterpacht<sup>5</sup> were intended precisely to make the article more flexible, and proposed that the Commission consider them without delay.

4. Mr. SCELLE agreed with Mr. Pal that the article should be made as broad as possible. Since the Commission was drawing up a draft convention it could point out that the five- or ten-mile rule for the straight base line was not absolutely rigid, and recommend

<sup>1</sup> *Official Records of the General Assembly, Eighth Session, Supplement No. 17 (A/2630), p. viii.*

<sup>2</sup> *Vide supra*, 252nd meeting, para. 54 and footnotes.

<sup>3</sup> For the English text of the article, *vide supra*, 254th meeting, footnote 7.

<sup>4</sup> *Vide supra*, 255th meeting, paras. 8 and 9.

<sup>5</sup> *Ibid.*, paras. 1-4.