

United Nations Conference on the Law of the Sea

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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 The proposal by Ecuador, originally made at the 3rd meeting, and amended by the representative of Mexico, to change the date from Wednesday, 9 April, to Monday, 31 March, was adopted at the 23rd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.

(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