

ARTICLE 7

275

waters as inland waters, but following the sinuosities of the coast to continue the lines marking the limits of the marginal seas of the two states.

In such cases each of the bordering states will be interested in preserving its ingress from and egress to the high sea. If the entrance to the bay is six miles, so that all of the waters of the entrance are part of the marginal sea of one state, then another state with territory inside will have the necessary ingress and egress by the exercise of the right of innocent passage.

Some difficulty might be encountered in a case where the entrance to a bay is less than six miles in width, and where the headlands marking the entrance are in the territories of different states. Such a case would call for the measurement of marginal seas at the entrance in such a way as to cause no overlapping of the marginal seas of the two states. This situation would generally be taken care of by convention between the states concerned.

No attempt is made in this text to deal with the tracing of boundary lines in the waters of a bay by the extension of the land boundaries. Attention may, however, be called to the case concerning the maritime frontier between Norway and Sweden before a tribunal of arbitration in 1909, in which the tribunal was of the opinion that the treaties relating to the land boundaries automatically partitioned the territorial waters. The award states (translation):

“The partition of today ought to be made by drawing a line perpendicular to the general direction of the coast, taking careful account of the need of indicating the boundary in a clear and unequivocal manner, and of making easy, so far as possible, the respect for the interests of those concerned.”

The Award also stated that “in order to ascertain what this direction is, it is necessary, in like manner, to take account of the direction of the coast situated on both sides of the boundary.” It was found by survey that the coast line inclined “from the true north by 20 degrees toward the west” and that “consequently the perpendicular line ought to run toward the west, at about 20 degrees south.” (Sentence Arbitrale, 23 Octobre 1909, de la Cour Permanente d'Arbitrage, p. 8.) The principle of division of adjacent waters by lines perpendicular to the general trend of the coast in practice makes an equitable division of the territorial waters, though of course historical, vested, and other rights and conditions may be considered.

ARTICLE 7

The marginal sea around an island, or around land exposed only at some stage of the tide, is measured outward three miles therefrom in the same manner as from the mainland.

COMMENT

The practice is nearly uniform in beginning to measure the marginal sea from the mean low water mark along the coast of an island as from the mean