

practice was not uniform, international law did not permit an extension of the territorial sea beyond twelve miles. The Commission also admitted the basic legitimacy of claims to jurisdiction put forward by various states for customs, fiscal and sanitary purposes. It accordingly had recommended that states be allowed to establish a contiguous zone of twelve miles measured from the baselines for purposes of customs, sanitation and fiscal control. Thus it had been recognized clearly by the International Law Commission that states could possess jurisdiction over part of the high seas for particular purposes, without, however, having to extend their territorial seas.

The Two Problems at the First Conference

At the outset of the Conference a wide variety of proposals was put forward concerning the extent of a coastal state's jurisdiction with respect to fisheries and the territorial sea. By the time it ended, however, there emerged two basic methods of approach for dealing with this problem: one was to restrict the extent of the territorial seas to protect the principle of the freedom of the high seas, and to allow coastal states to have an exclusive fishing zone contiguous to their territorial sea; the other was to permit states to achieve their objectives by granting a wider territorial sea.

These two solutions were embodied in four main proposals,¹ none of which was able to muster the two-thirds majority support necessary for its adoption. The Canadian formula called for a six-mile territorial sea and an additional six-mile exclusive fishing zone. The United States proposal differed from the Canadian in that it recognized the right of states which had fished for a period of five years in the outer six-mile zone to continue to do so. An eight-power resolution would have granted each state the right to choose its own breadth of the territorial sea at any point

¹ See Annex for the text of these four proposals.