

boundary of the shelf should be its actual edge. Where, however, the edge of the shelf is ill-defined or where there is no shelf in a geographical sense, the boundary might be set at such a depth as might satisfy foreseeable practical prospects of exploitation.

It should be added that this suggestion might also solve the special problem raised by the International Law Commission regarding submerged areas of a depth less than 200 metres which are separated from the main shelf by narrow channels. While the scarcity of soundings in many areas makes it impossible to be definite concerning the number of such submerged areas it is thought that if the actual edge of the shelf were considered to be the boundary, by far the greater number of these "islands" would then be included as part of the shelf and would so not create a special problem.

(d) *High Seas Fishing*

The Canadian government has the following comments with regard to the draft articles indicated:

*Article 51*

There is a possibility that in a given area the nationals of one state could be exploiting one kind of living marine resource and at the same time the nationals of another state could be exploiting another kind of resource. The Article, as presently drafted, does not seem to take account of such a situation. It refers to an area rather than to a particular resource. A more explicit statement appears to be desirable.

*Article 52*

The Article, as drafted, might be interpreted as applying only to a case where the nationals of two or more states fished the same stock or stocks of fish in any one area. In some instances, to provide adequate conservation measures it would be desirable to have them applied to the same stock of fish even though it were fished in different areas. A clarification in wording is therefore suggested.

The criterion suggested by the Commission (see paragraph I of its commentary to Article 52) for invoking the procedure envisaged in this Article is that a state be "regularly engaged in fishing." Under Article 53 an existing régime does not apply to a newcomer unless he is engaged in substantial fishing (see Paragraph 2 of the Commission's commentary on Article 53). It would seem reasonable therefore that under Article 52 a state ought only to be allowed to call for the establishment of a régime if it is engaged in substantial fishing, subject of course to Articles 54, 55 and 56.

*Article 53*

The Article, as drafted, would make conservation measures adopted pursuant to Articles 51 and 52 applicable to other states only in the case of fishing for the same stocks of fish in the same area. From the conservation point of view the provision is inadequate. It is the stocks of fish which must be protected regardless of the fact whether they are fished in the same area or not.

In paragraph 2 of the Commission's comment on this Article, it is stipulated that the regulations should be applicable to newcomers only if they engage in fishing on a scale which would substantially affect the stock or stocks in question. It would be preferable to have this stipulated in the Article, for instance, by adding after "any of the interested parties" in paragraph 2 of the Article the words, "engaged in the fishing on a substantial basis."