

U.S. Suggestion re Canadian Comments

5. Our compromise proposal, that is, the retention of the 3-mile limit but with a 12-mile limit for fisheries, has appeared until recently to be no more acceptable to the United States than the proposal that the territorial sea should be extended to 12 miles. However, on the basis of the informal views expressed at the recent meeting, there is evidence of some modification of the United States position. They are still unalterably opposed for security reasons to extending the territorial sea. A further reason which they are reluctant to admit, appears to be that there are important United States shrimp fishery interests off the Coast of Mexico between the 3 and 12-mile limit which would be affected by either an extension of the territorial sea or by the adoption of a rule recognizing a State's exclusive right of control over fisheries in a 12-mile contiguous zone. Similarly, we think United States fears for the exclusion of their fisheries from Canadian Coastal waters. On the basis of the wide consultations they are carrying out it appears that the US are concerned for the general acceptability of the abstention principle. Furthermore, and presumably as a bargaining measure, they are not at present prepared to accept the International Law Commission's provision that in certain circumstances the coastal State may have the right to unilaterally prescribe conservation measures on the high seas adjacent to its coast. The chief new development in the American position, as outlined in these informal discussions, was a suggestion that our proposal for a 12-mile contiguous zone in which States would have exclusive control over fisheries, might be more acceptable if it were to have regional rather than general application. In sum the suggestion is that where the economic interests of the coastal area in question can be demonstrated to depend upon the resources of the adjacent sea, a case might be made for a 12-mile contiguous zone in that particular area, wherein the exclusive control of fishing would ensure to the State in question. Such a principle would at least have a parallel in that enunciated by the International Court of Justice in the Anglo-Norwegian Fisheries case where Norway's right to employ the straight baseline system on a portion of its coast was considered justified primarily for geographical reasons, but also because of the economic dependence of the particular coastal regions on the waters enclosed by the straight baselines. Canadian officials expressed their interest in the variant of our proposal put forward by US officials and promised to consider it further.

6. At the forthcoming Conference, if any general agreement is to be reached on some of the more important aspects of the law of the sea, participating States will have to be prepared to modify positions taken at the beginning of the Conference. It would seem worthwhile, therefore, for the proposal made by the United States to be considered in its possible application to the Canadian coastline. It was suggested by Canadian officials that the economic dependence of Nova Scotia and particularly the island of Newfoundland on the off-shore fisheries would probably warrant application of the scheme to those coasts. It is for consideration whether the same could be said of the West Coast or whether there, where the salmon fishery is paramount, a suitable régime involving the principle of abstention might not better serve the fishing industry in that part of Canada. This would leave the status quo on the Coast of Labrador and the Arctic Archipelago in so far as the application of the 12-mile contiguous zone is concerned.

II. DISCUSSION WITH U.K. GOVERNMENT OFFICIALS

7. We are aware that the United Kingdom Government is concerned over the Canadian proposal. Informal meetings have been held with officials as late as August of this year when there was a meeting of officials of all Commonwealth countries in London, but none have been held since the Government decided to send its comments to the Secretary-General in September. United Kingdom authorities have been heard to contend that if the