

A separate article on sedentary fisheries is not included because in the Commission's view, apart from the cases where prior rights of aliens are involved, the sovereign right of the coastal state over its continental shelf covers also sedentary fisheries.

A new article has been added providing for arbitration in the case, not of boundary disputes only, but of all disputes arising out of the exploration or exploitation of the continental shelf.

The Canadian Delegation would have preferred the inclusion of a separate article on sedentary fisheries. It also pointed out that the advantages of certainty urged by the Commission in support of its view that the continental shelf should be considered as extending to the 200 metre depth mark might be outweighed by the advantages of a more flexible formula based on the practical possibilities of exploration and exploitation.<sup>1</sup>

The articles adopted by the Commission on the international regulation of fisheries envisaged the establishment of an international authority within the framework of the United Nations, whose regulations states would be obliged to accept as binding upon their nationals. The Commission recommended that the General Assembly consult with the Food and Agriculture Organization regarding the establishment of such a body and the preparation of drafts of a convention in conformity with the general principles embodied in the Commission's articles. According to these articles, states participating in the fisheries of special areas would agree to regulate and control fishing activities. If the nationals of other states afterwards engaged in the fisheries and did not accept the measures adopted, the matter would be referred to the international authority. In the case of fisheries situated within 100 miles of the territorial sea of a coastal state, this state might participate in the system of regulation whether or not it participated in the fisheries.

These articles go beyond existing law and must be regarded to a large extent as falling in the category of progressive development of international law.

Canada is of course vitally interested in these draft articles on the international regulation of fisheries. The Canadian view was that it was "altogether premature to attempt to establish at this time an international body to govern and regulate fisheries". The Canadian Representative in the Legal Committee suggested that the establishment of international commissions such as many countries already belong to be considered as a first step towards the general regulation of fisheries which the International Law Commission has in mind.

The Commission adopted a single article on the contiguous zone which appears to be in accordance with accepted practice. This provides for the exercise by each sea-bordering country of the control necessary to prevent and punish the infringement within its territories or territorial sea of its customs, immigration, fiscal or sanitary regulations up to a distance of 12 miles from the baseline from which the width of the territorial sea is measured. The Commission recommended that the General Assembly take no action on

<sup>1</sup>Department of External Affairs Supplementary Paper 53/63.