

would gain under a twelve-mile territorial sea without the disadvantages which would follow from extending the territorial sea to that limit. The Canadian solution differs from the United States six plus six formula put forward at the last Conference in that it does not deal with the existence of "traditional" fishing rights in the outer six-mile zone.<sup>1</sup>

**Disadvantages of a Twelve-Mile Territorial Sea—  
Effect on Security and Communications**

The proposal for a three-to-twelve-mile territorial sea would recognize a twelve-mile territorial sea limit and, if approved, would likely lead to the general adoption of a twelve-mile territorial sea. The Canadian solution calls for a six-mile territorial sea, the widest possible limit compatible with the principle of the freedom of the high seas. A six-mile limit for the territorial sea would not detract from the rights of coastal states; on the contrary, combined with other rules, it would provide coastal states with greater advantages than they would obtain under a general twelve-mile territorial sea limit.

Thus, if the Canadian solution were approved by the Second Conference, all coastal states would acquire a six-mile territorial sea, and a further six-mile exclusive fishing zone. Under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, coastal states would also obtain, in the outer six-mile zone, control for customs, fiscal, immigration and sanitary purposes. The *only* additional interest of a coastal state which a twelve-mile territorial sea might be thought to protect is that of security. There are, however, a number of reasons, particularly in the nuclear age, to suggest that the extension of the territorial sea beyond six miles does not necessarily provide increased security, but, rather, might reduce the very security which a coastal state is thus attempting to achieve. For example, an extension of a state's territorial sea to twelve miles might, if that state were neutral in time of war, be more likely to involve it in a limited conflict because of the greater difficulty in protecting its neutrality rights in the wider territorial sea. With the territorial sea extended there would, moreover, be an additional area in which the right of innocent passage would be applicable, with the probable result of increased occasions for dispute.

It would seem that the security of a state might be better ensured by other methods under international law, rather than by the extension of territorial waters. Such measures are already provided for by the rights of self-defence, and of hot pursuit (approved in Article Twenty-Three of the Convention on the High Seas), and by laws which enable countries, in certain circumstances, to take action on the high seas to punish violations committed within their territorial seas. Naval demonstrations, moreover, can be more effectively dealt with under the United Nations Charter (Articles 2(4), 10 and others), rather than through an extension of the territorial sea.

<sup>1</sup> See page 442 for a discussion of the Canadian view on methods for dealing with problems arising in the outer six-mile zone.