

VI LEGAL QUESTIONS

International Law Commission

At its fifth session the International Law Commission made further progress in its task of codification of international law.¹ In its report² the Commission adopted and submitted to the General Assembly a draft Convention on Arbitral Procedure as well as draft articles on three sub-topics of the Regime of the High Seas: the continental shelf; fisheries; and the contiguous zone. The Commission also adopted provisionally two draft Conventions on Statelessness which dealt with the elimination and the reduction of future statelessness, and requested the comments of governments on these drafts.³ The report of the Commission was discussed at the eighth session of the General Assembly, particular attention being paid to the Regime of the High Seas and Arbitral Procedure.

Regime of the High Seas

Although the Regime of the High Seas comprehends more than the three topics discussed in the Commission's report, the Commission recommended that the Assembly adopt now articles on the continental shelf and fisheries, since several states were contemplating promulgating regulations governing the continental shelf and these would be more likely to follow a set pattern, if the proposed articles on the continental shelf were generally accepted.

The articles finally recommended by the Commission differ in some respects from those which were originally proposed. Instead of being related to the criterion of "exploitability", the limit of the continental shelf is now defined as, "the seabed and subsoil of the submarine areas contiguous to the coast, but outside the area of the territorial sea, to a depth of two hundred metres". During the Commission's discussion of this rule, the necessity for modifications was recognized: for instance, in the case of submerged areas of a depth less than 200 metres situated in considerable proximity to the coast and separated from it by a narrow channel deeper than 200 metres. This exception may well be important to Canada in view of the nature of the continental shelf adjacent to the Canadian coastline.

The articles recognize the sovereign right of the coastal state to explore and exploit the natural resources of the continental shelf whilst at the same time recognizing that this right does not affect the legal status of the high seas above the continental shelf and of the air space in turn above the high seas.

An attempt is also made to define the boundary of the continental shelf where it is contiguous to the territories of two or more states, in the absence of agreement between the states concerned.

¹See *Canada and the United Nations 1952-53*, p. 85.

²General Assembly Document, Supplement No. 9 (A/2456).

³See "Statelessness", above p. 53.