

In fact, the code of the International Law Commission reiterates some of the principles already enunciated in existing agreements.

### **Breadth of Territorial Sea**

The Canadian Government has signified its intention to be represented at the forthcoming Conference. It has also communicated to the Secretary-General its provisional views on some of the important matters with which the Conference will deal.\* One of these is the breadth of the territorial sea, that is, the belt of sea adjacent to the coast of a state and over which it has sovereignty. The Canadian view is that a breadth of three miles, presently applicable in Canada, is not adequate for all purposes. It is not adequate for enforcement of customs, fiscal and sanitary regulations. This has been recognized by the International Law Commission in a provision which would enable a state to exercise control for this purpose in a zone, called the contiguous zone, which would extend twelve miles from the point where the territorial sea is measured or nine miles beyond the three-mile limit. The Canadian view is that the three-mile limit is also not adequate for the protection and control of fisheries and it is considered that it is important that the rules of international law should provide adequately for the regulation and control of fisheries off the coast of any state. One way of providing for this would be by accepting, for general application, the twelve-mile breadth for the territorial sea. That would allow for complete fishery, customs, fiscal and sanitary control and regulation within that limit and dispense with the need for a contiguous zone. It is recognized however, that a general extension of the breadth of the territorial sea to twelve miles could have consequences of importance with regard to the freedom of sea and air navigation. An alternative approach, which would not affect the rights of navigation by sea or by air, would be to agree on a contiguous zone of twelve miles as recommended by the Commission but with the modification that within that zone the coastal state should have the exclusive right of regulation and control of fishing. Rights over fisheries in such a zone should, in the Canadian view, be as complete as those that are afforded to a coastal state within the limits of the territorial sea.

### **Straight Baseline System**

In its judgment in the Anglo-Norwegian Fisheries case the International Court of Justice sanctioned the use by Norway of the so-called straight baseline system whereby Norway measured its territorial sea from straight lines running from point to point along the coast, rather than from the coastline itself. As a consequence of this judgment the International Law Commission has made the following recommendation:

#### **Article 5:**

1. Where circumstances necessitate a special regime because the coast is deeply indented or cut into or because there are islands in its immediate vicinity, the baseline may be independent of the low-water mark. In these cases, the method of straight baselines joining appropriate points may be employed. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters. Account may nevertheless be taken, where necessary, of economic interests peculiar to a region, the reality and importance of which are clearly evidenced by a long usage. Baselines shall not be drawn to and from drying rocks and drying shoals.

There is also a subsidiary provision which would safeguard the right of innocent navigation in waters which had previously been used for international traffic.

\*See Hansard November 28, 1957.