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AD HOC COMMITTEE TO STUDY THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

LEGAL ASPECTS OF THE QUESTION OF THE RESERVATION EXCLUSIVELY FOR PEACEFUL PURPOSES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, AND THE USE OF THEIR RESOURCES IN THE INTERESTS OF MANKIND

Study prepared by the Secretariat

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INTRODUCTION

1. This study has been prepared by the Secretariat in accordance with resolution 2340 (XXII) by which the General Assembly decided to establish an Ad Hoc Committee to study the scope and various aspects of the item entitled "examination of the question of the reservations exclusively for peaceful purposes of the sea-bed and the ocean floor and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction and the use of their resources in the interests of mankind". The resolution requested the Ad Hoc Committee, in co-operation with the Secretary-General to prepare, for consideration by the General Assembly at its twenty-third session, a study which would include inter alia an account of the legal aspects of the item.

2. At its second meeting the Ad Hoc Committee decided to establish two working groups: (1) a Technical and Economic Working Group to deal with the technical and economic aspects of the item and (2) a Legal Working Group to deal with the legal aspects.

3. At its ninth meeting the Ad Hoc Committee through its chairman requested the Secretariat to prepare for the Legal Working Group, inter alia,[1/] (a) an account of the legal status of the sea-bed and ocean floor and its subsoil beyond the limits of national jurisdiction in so far as it is relevant to the exploration and exploitation of the resources thereof, including provisions and practice of the law of the sea relating to this question, and (b) a statement of various legal régimes which might be applied to the exploitation of the resources covered by the Ad Hoc Committee's terms of reference.

4. In his statement incorporating the suggestions made by the members of the Ad Hoc Committee with regard to the documentation to be requested from the Secretariat, the Chairman of the Committee proposed to leave to the discretion of the Secretariat the formal division and arrangement of the subject matter.

5. The present study deals with its subject matter under three sections, arranged as follows:

1/ Surveys of existing international agreements and of national legislation on the subject have been issued as documents A/AC.135/11 and A/AC.135/10, respectively.

I. Definition of the sea-bed and the ocean floor and the subsoil thereof, underlying the high seas, beyond the limits of present national jurisdiction.

II. Principles and rules of international law applicable to the sea-bed and the ocean floor and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction.[2/]

III. Alternative legal régimes which might be applied in the future to the sea-bed and the ocean floor and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction.[3/]

6. This study makes extensive reference to multilateral conventions and their legislative history, in particular to the four conventions on the law of the sea which were adopted by the First United Nations Conference on the Law of the Sea in 1958 on the basis of draft articles prepared by the International Law Commission. Reference to these conventions is necessary, since they and their background give a much fuller conspectus of the views of States than any other source. The discussion in this study, however, is without prejudice to the question of the extent to which the provisions of the conventions referred to embody customary international law, and are thus binding even upon States which have not become parties to them.

2/ Issued as document A/AC.135/19/Add.1.

3/ Issued as document A/AC.135/19/Add.2.

I. DEFINITION OF THE SEA-BED AND THE OCEAN FLOOR AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS, BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION

7. In order to define the scope of the present study, it is necessary to explore the meaning of the reference in General Assembly resolution 2340 (XXII) to "the sea-bed and the ocean floor and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction". This language qualifies in two different ways the expression "the sea-bed, the ocean floor and the subsoil thereof", first as that "underlying the high seas" and then, as that which is "beyond the limits of present national jurisdiction". The expression "underlying the high seas" involves the question of the definition of the high seas. The expression "beyond the limits of present national jurisdiction" involves the consideration of such limits. The precise meaning of both expressions will be explored on the basis of the Geneva Conventions on the Law of the Sea, the only multilateral instruments which contain provisions having even a marginal bearing upon the subject.

8. Thus, article 1 of the Convention on the High Seas defines the high seas as "all parts of the sea that are not included in the territorial sea or in the internal waters of a State". According to article 2 of the Convention on the Territorial Sea and the Contiguous Zone, the sovereignty of a coastal State over the territorial sea extends to its bed and subsoil. However, the geographical limits to which a coastal State may extend its sovereignty over this part of the sea-bed and its subsoil are undetermined, as the Convention contains no provision on the breadth of the territorial sea.[4/] The limits of the internal waters depend upon a number of

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4/ The Convention on the Territorial Sea and the Contiguous Zone provides rules in articles 3 to 13 for the determination of the limits of the territorial sea. Such limits, however, concern the landward lines from which the territorial sea is measured and the seaward lines separating the territorial sea from the high seas. The question of the breadth of the territorial sea was discussed by the International Law Commission which at its eighth session formulated some principles in this connexion (Yearbook of the International Law Commission, 1956, vol. II, p. 265, article 3). However, the Conference on the Law of the Sea was unable to secure adoption of any provision regarding the breadth of the territorial sea because of the absence of the required two-thirds majority. The Second Conference on the Law of the Sea, which was called by the General Assembly under resolution 1307 (XIII) to consider further the questions of the breadth of the territorial sea and fishery limits did not succeed in adopting legal provisions on these matters as none of the proposals obtained the required two-thirds majority. Assertions of State rights to the territorial sea cover areas of the sea and the sea-bed ranging from 3 to 200 miles (see table in document A/CN.135/11).

circumstances not all of which are at present covered by hard and fast rules.[5/] The Convention does not refer to the bed and subsoil of the internal waters probably because it is implied that the coastal State exercises sovereignty over these submarine areas in the same way as over the land.

9. As the coastal State exercises sovereignty over the sea-bed and subsoil thereof underlying the territorial sea and the internal waters, these areas are wholly under national jurisdiction. Two other areas - the contiguous zone[6/] and the continental shelf - though in the high seas according to the Geneva Conventions, are also under some form of national jurisdiction for particular purposes. With respect to these two areas, the problem of limits of national jurisdiction is twofold, as it involves their geographical limits and also the limits of the legal scope of the rights which the coastal State may exercise over these areas. Such problems will be examined here primarily with respect to the continental shelf inasmuch as during the discussion of the item and in the statement of the Chairman of the Ad Hoc Committee[7/] the question of the continental shelf was specifically emphasized. The examination of the problem of limits of the continental shelf, in the dual sense mentioned above, will be completed by a review of questions relating to the interpretation of article 1 of the Convention on the Continental Shelf and of relevant State practice.

5/ Although the Convention on the Territorial Sea and the Contiguous Zone contains some provisions dealing with the internal waters, the limits of this area of the sea cannot always be drawn solely on the basis of the provisions of the Convention. The Convention contains no provision concerning the method for drawing the baselines in case of groups of islands or archipelagos, nor any provisions on historical bays.

6/ Article 24 of the Convention on the Territorial Sea and the Contiguous Zone defines the contiguous zone as one of the high seas where the coastal State may exercise the control necessary to prevent infringement and punish infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea. The zone may not extend beyond twelve miles from the baseline from which the breadth of the territorial sea is measured. There is no indication in the legislative history whether or not article 24 was intended to cover the sea-bed and its subsoil as well as the superjacent waters of the high seas.

7/ Statement of the Chairman of the Ad Hoc Committee, A/CN.135/5.

10. Some form of jurisdiction is also exercised on the sea-bed in areas underlying the high seas with respect to fisheries conducted by means of equipment embedded in the floor of the sea. Jurisdiction over this special type of fisheries will be examined under a separate heading.

A. Provisions of the Geneva Conventions on the Law of the Sea concerning geographical limits and legal scope of national jurisdiction over the sea-bed and subsoil of the high seas

1. Continental shelf

(a) Geographical limits

11. According to article 1 of the Convention, the term "continental shelf" designates areas which are adjacent to the coast "but outside the area of the territorial sea". Therefore, the inner limits of the continental shelf will depend upon the breadth of the territorial sea.

12. Since problems concerning the outer limits of the continental shelf have attracted considerable attention in the debates of the General Assembly preceding adoption of resolution 2340 (XXII) and in those of the Ad Hoc Committee, a detailed account will be given here of the legislative history of article 1 of the Convention on the Continental Shelf and of the various questions which have arisen from its interpretation. The question of the legal scope of national jurisdiction over the continental shelf will be examined under a separate subheading.

(i) Legislative history of article 1 of the Convention

13. The International Law Commission dealt with the continental shelf at its second, third, fifth and eighth sessions, held respectively in 1950, 1951, 1953 and 1956. In its first draft prepared at its third session (1951), the Commission defined the continental shelf on the basis of the criterion of exploitability, whereby the continental shelf extends as far as the depth of the superjacent waters admits of the exploitation of the natural resources of the sea-bed and subsoil. At its fifth session (1953) the Commission abandoned the criterion of exploitability in favour of that of a fixed limit marked by a depth of 200 metres. Finally, at its eighth session (1956), it combined the two criteria. From the beginning of its study in 1950, the Commission decided not to adhere strictly to the geological

concept of the continental shelf, a decision which it maintained for its final draft article produced in 1956. The Conference on the Law of the Sea adopted the final draft of the article, which with slight modifications (consisting only of the inclusion of insular areas in the definition) became article 1 of the Convention on the Continental Shelf upon adoption of the Convention on 29 April 1958. The article as adopted reads as follows:

> "For the purpose of these articles, the term 'continental shelf' is used as referring (a) to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands."

14. At its second session (1950), the International Law Commission agreed on a general concept of the continental shelf which it expressed as follows:

> "The Commission took the view that a littoral state could exercise control and jurisdiction over the sea-bed and subsoil of the submarine areas situated outside its territorial waters with the view to exploring and exploiting the natural resources there. The area over which such a right of control and jurisdiction might be exercised should be limited; but, where the depth of the waters permitted exploitation, it should not necessarily depend on the existence of a continental shelf. The Commission considered that it would be unjust to countries having no continental shelf if the granting of the right in question were made dependent on the existence of such a shelf." 8/

15. At its third session (1951), the Commission adopted unanimously an article based on the proposal of its Special Rapporteur, as follows:

> "As here used, the term 'continental shelf' refers to the sea-bed and the subsoil, but outside the areas of marginal sea where the depth of the superjacent water does not exceed 200 metres." 9/

A proposal was also adopted as follows:

> "The rights of control and jurisdiction referred to in the present chapter belong, up to a distance of twenty miles beyond territorial waters, to all the coast States which do not possess a continental shelf as defined in article 1." 10/

8/ Yearbook of the International Law Commission, 1950, vol. II, p. 384, para. 198.

9/ Ibid., 1951, vol. I, 113th meeting, para. 118.

10/ Ibid., 117th meeting, para. 65.

After these two articles have been voted upon, several members expressed dissatisfaction with the principles contained in them. A Committee of the Commission met and submitted new proposals which omitted reference to a depth of 200 metres and were finally adopted to replace the two articles previously voted upon.11/ The article thus adopted was as follows:

> "As here used, the term 'continental shelf' refers to the sea-bed and subsoil of the submarine areas contiguous to the coast, but outside the area of territorial waters, where the depth of the superjacent waters admits to the exploitation of the natural resources of the sea-bed and subsoil." 12/

The Commission in its commentary on that article explained that it had rejected a fixed depth limit of 200 metres for its definition as it considered that such limit would have the disadvantage of instability in case technical developments in the near future made it possible to exploit resources at a depth over 200 metres.

16. At its fifth session (1953), the Commission adopted the following draft article:

> "As used in these articles, the term 'continental shelf' refers to the sea-bed and subsoil of the submarine areas contiguous to the coast, but outside the area of the territorial sea, to a depth of 200 metres." 13/

17. In commentary on that article in its report, the Commission said that in the light of the observations of certain Governments (eighteen Governments had sent their comments on the draft submitted by the Commission), the Commission had come to the conclusion that the text previously adopted would give rise to uncertainties and disputes. The report added that "On the other hand, the limit of two hundred metres - a limit which is at present sufficient for all practical needs - has been fixed because it is at that depth that the continental shelf, in the geological sense, generally comes to an end". However, the Commission specified that it in no way considered "that the existence of the continental shelf in its geographical configuration as generally understood is essential for the exercise of the rights

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11/ Ibid., 123rd meeting, paras. 4, 6.

12/ Ibid., vol. II, p. 141, article 1.

13/ Ibid., 1953, vol. II, p. 212, article 1.

of a coastal State". It went on to say that "although the depth of two hundred metres as a limit of the continental shelf must be regarded as the general rule, it is a rule which is subject to equitable modifications in special cases in which submerged areas, of a depth less than two hundred metres, situated in considerable proximity to the coast are separated by a narrow channel deeper than two hundred metres from the part of the continental shelf adjacent to the coast. Such shallow areas must, in these cases, be considered as contiguous to that part of the shelf."14/

18. At its eighth session (1956), the Commission adopted the following draft text:

> "For the purposes of these articles, the term 'continental shelf' is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres (approximately 100 fathoms), or, beyond that limit, to where the depth of the superjacent waters admit of the exploitation of the natural resources of the said area." 15/

19. The Commission in its report noted that:

> "... the Inter-American Specialized Conference on 'Conservations of Natural Resources: Continental Shelf and Oceanic Waters, held at Ciudad Trujillo (Dominican Republic) in March 1956, had arrived at the conclusion that the right of the coastal State should be extended beyond the limit of 200 metres, 'to where the depth of the superjacent waters admits of the exploitation of the natural resources of the sea-bed and subsoil'." 16/

The Commission also said that:

> "While maintaining the limit of 200 metres in this article as the normal limit corresponding to present needs [some of the members of the Commission] wished to recognize forthwith the right to exceed that limit if exploitation of the seabed or subsoil at a depth greater than 200 metres proved technically possible. It was, therefore, proposed that the following words should be added to the article [adopted in 1953], "or beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas." 16/

14/ Ibid., pp. 213-214, paras. 64, 65, 66.

15/ Ibid., 1956, vol. II, p. 296.

16/ Ibid., Commentary, para. (4).

Other members contested the usefulness of the addition which in their opinion unjustifiably impaired the stability of the limit adopted. The majority of the Commission nevertheless decided in favour of the addition. As it had done with respect to its previous drafts, the Commission devoted a considerable part of its commentary on the article to explaining in detail the concept of the continental shelf which it supported. Paragraphs (5) to (9) of the commentary of the Commission containing such explanations are quoted in full below:

"(5) The sense in which the term 'continental shelf' is used departs to some extent from the geological concept of the term. The varied use of the term by scientists is in itself an obstacle to the adoption of the geological concept as a basis for legal regulation of this problem.

"(6) There was yet another reason why the Commission decided not to adhere strictly to the geological concept of the continental shelf. The mere fact that the existence of a continental shelf in the geological sense might be questioned in regard to submarine areas where the depth of the sea would nevertheless permit of exploitation of the subsoil in the same way as if there were a continental shelf, could not justify the application of a discriminatory legal régime to these regions.

"(7) While adopting, to a certain extent, the geographical test for the 'continental shelf' as the basis of the juridical definition of the term, the Commission therefore in no way holds that the existence of a continental shelf, in the geographical sense as generally understood, is essential for the exercise of the rights of the coastal State as defined in these articles. Thus, if, as is the case in the Persian Gulf, the submarine areas never reach the depth of 200 metres, that fact is irrelevant for the purposes of the present article. Again, exploitation of a submarine area at a depth exceeding 200 metres is not contrary to the present rules, merely because the area is not a continental shelf in the geological sense.

"(8) In the special cases in which submerged areas of a depth less than 200 metres, situated fairly close to the coast, are separated from the part of the continental shelf adjacent to the coast by a narrow channel deeper than 200 metres, such shallow areas could be considered as adjacent to that part of the shelf. It would be for the State relying on this exception to the general rule to establish its claim to an equitable modification of the rule. In case of dispute it must be a matter for arbitral determination whether a shallow submarine area falls within the rule as here formulated.

"(9) Noting that it was departing from the strictly geological concept of the term, inter alia, in view of the inclusion of exploitable areas beyond the depth of 200 metres, the Commission considered the possibility of adopting a term other than 'continental shelf'. In considering whether

it would not be better, in conformity with the usage employed in certain scientific works and also in some national laws and international instruments, to call these regions 'submarine areas'. The majority of the Commission decided to retain the term 'continental shelf' because it is in current use and because the term 'submarine areas' used without further explanation would not give a sufficient indication of the nature of the areas in question. The Commission considered that some departure from the geological meaning of the term 'continental shelf' was justified, provided that the meaning of the term for the purpose of these articles was clearly defined. It has stated this meaning of the term in the present article." 17/

20. The Conference on the Law of the Sea adopted the following text as article 1 of the Convention on the Continental Shelf:

"For the purpose of these articles, the term 'continental shelf' is used as referring (a) to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea to a depth of 200 metres, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands."

The words "or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" were put to a separate vote in plenary meeting. They were adopted by 48 votes to 20, with 2 abstentions. The article as a whole was adopted by 51 votes to 5, with 10 abstentions.18/

21. During the debates in the Fourth Committee or in plenary meetings of the Conference the following proposals were submitted and either withdrawn or rejected:

17/ Ibid., p. 297.

18/ First United Nations Conference on the Law of the Sea, Official Records, vol. II, 8th plenary meeting, para. 44.

Panama

Doc. A/CONF.13/C.4/L.4

"For the purposes of these articles, the common expression 'continental shelf' is used as referring to the sea-bed, soil and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, including both constituent parts of the continental terrace, namely, the continental shelf proper and the continental slope with its gorges, valleys, depressions and ravines, as far as the further points at which the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas of the continental slope, but excluding the great depths of oceanic basins."

This proposal was rejected by 38 votes to 4, with 26 abstentions.19/

Argentina

Doc. A/CONF.13/C.4/L.6

"The term 'continental shelf' refers to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea.

"The sovereignty of a State extends over the submarine shelf contiguous to its seacoast, to a depth of 200 metres."

This proposal was withdrawn.20/

France

Doc. A/CONF.13/C.4/L.7

Delete the words:

"or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said area".

This proposal was rejected by 48 votes to 12, with 7 abstentions.21/

19/ Ibid., vol. VI, Fourth Committee, 19th meeting, para. 14.

20/ Ibid., para. 1.

21/ Ibid., para. 10.

Yugoslavia

Doc. A/CONF.13/C.4/L.12

"1. For the purposes of these articles the term 'continental shelf' is used as referring to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres, but only up to a boundary line not extending beyond 100 miles from the outer limit of the territorial sea. Local occurrences of submarine gorges, valleys, depressions and ravines shall not be taken into account in this area of 100 miles, provided they are within the outer limit of the continental shelf as described in the preceding sentence.

"2. Where such a depth is greater, the continental shelf stretches only up to a boundary line not extending beyond 50 miles in the direction of the high seas from the outer limit of the territorial sea."

This proposal was orally amended by its sponsor by replacing the words "200 metres" by "550 metres".[22/] The proposal, as orally amended, was rejected by 39 votes to 2, with 21 abstentions.[23/] In plenary meeting the same amendment was rejected by 53 votes to 3, with 11 abstentions.[24/]

India

Doc. A/CONF.13/C.4/L.29/Rev.1

"For the purposes of these articles, the term 'continental shelf' is used as referring to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, extending so far as the sea-bed is concerned to a depth of 550 metres of the superjacent waters."

This proposal was rejected by 31 votes to 21, with 16 abstentions.[25/]

22/ Ibid., para. 7.

23/ Ibid., para. 10.

24/ Ibid., vol. II, 8th plenary meeting, para. 36.

25/ Ibid., vol. VI, Fourth Committee, 19th meeting, para. 12.

Canada

Doc. A/CONF.13/C.4/L.30

"For the purposes of these articles, the term 'continental shelf' is used as referring to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to the point where a substantial break in grade occurs leading to abyssal ocean depth, or where there is no such subtantial break in grade, to the point at which the depth of the superjacent waters reaches 200 metres."

Canada amended this proposal orally by replacing the words "200 metres" by "550 metres".[26] The Federal Republic of Germany reintroduced the original unamended proposal of Canada.[27] The proposal originally submitted by Canada and reintroduced by the Federal Republic of Germany was rejected by 45 votes to 4, with 18 abstentions.[28] The Canadian proposal as orally amended was rejected by 39 votes to 16, with 12 abstentions.[28]

Netherlands and United Kingdom

Doc. A/CONF.13/C.4/L.32

"1. The provisions of the following articles shall apply to the sea-bed and subsoil of submarine areas contiguous to the outer limit of the territorial sea, including the continental shelf, the continental slope, and the submarine areas contiguous to islands.

"2. The coastal State exercises over these areas sovereign right for the purpose of exploring and exploiting their natural resources. For this purpose devices working on or in the high seas may be used up to a depth of water of 550 metres."

This proposal was withdrawn.[29]

26/ Ibid., para. 6.

27/ Ibid., para. 9.

28/ Ibid., para. 14.

29/ Ibid., para. 13.

Sweden

Doc. A/CONF.13/C.4/L.33

"1. The Coastal State exercises over the submarine areas adjacent to its coast but outside the area of the territorial sea, up to a depth of water of 550 metres, control and jurisdiction for the purpose of exploring and exploiting the natural resources of the sea-bed and subsoil of such area."

This proposal was withdrawn[30/] in favour of the revised proposal of India (A/CONF.13/C.4/L.29/Rev.1) reproduced above.

22. Article 7 of the Convention makes it clear that the right of exploitation of the subsoil of the high seas by means of tunnels dug from terra firma is not subject to either of the criteria laid down in article 1, since as in this particular case such exploitation cannot affect the freedom of the seas. Article 7 reads as follows: "The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil."

(ii) Questions relating to the interpretation of article 1 of the Convention on the Continental Shelf

23. Various questions have been raised regarding the interpretation of article 1 of the Convention, both in the debates of the Fourth Committee (Continental Shelf) of the 1958 Conference on the Law of the Sea and by legal commentators. Some of these questions will be examined here since the answers given to them affect in one way or another the determination of the seaward boundary of the continental shelf, which is also the boundary of the sea-bed and ocean floor underlying the high seas and beyond the continental shelf. Firstly, there is a difference of opinion as to whether article 1 can be construed as authorizing an extension of national jurisdiction across the sea-bed and the ocean floor up to the mid-way point lying between it and the coastal State opposite. The two prevailing schools of thought will be reviewed in the following subsection. In addition, doubts have been expressed on the manner in which the conditions for the application of article 1 are intended to operate. The relevant views will be grouped under the headings

30/ Ibid., para. 2.

"The question of the relation between the criterion of depth and the criterion of exploitability", and "The question of the meaning of the criterion of exploitability".

(a) Question whether the whole submarine areas of the high seas can become part of the continental shelf 31/

24. It has been contended that article 1 of the Convention could be interpreted as causing all the submerged areas in the oceans and seas to become part of the continental shelf, if technology should advance to the point where all such areas are exploitable. The ground advanced for this interpretation is the language of the definition which, referring to "the seabed and subsoil of the submarine areas adjacent to the coast", extends the continental shelf "to where the depth of the superjacent waters admits of the exploitation of the resources of the said areas". From this language, it is inferred that as technical capability develops, a coastal State may extend its jurisdiction across the deep sea floor until it encounters the limit of the similarly extended jurisdiction of the coastal State opposite, in accordance with rules for the delimitation of the boundaries of the continental shelf contained in article 6 of the Convention.

25. Opponents of this interpretation have argued that it ignores that element in the definition of the continental shelf requiring that such areas be "adjacent to the coast". On the basis of the language of article 1 of the Continental Shelf Convention, this requirement applies whether the sea-bed is less than 200 metres deep or whether it is deeper, but admits of exploitation. Although the concept of adjacency may be not very precise, it would, it ~~is argued,~~ prevent extending the continental shelf to the middle of the ocean. It has also been argued against that interpretation that the term "continental shelf" was deliberately retained by both the International Law Commission and the Geneva Conferences. The International Law Commission said in its report on its eighth session (1956) that it decided to retain the term "because the term 'submarine areas' used without further explanation would

31/ For an account of this interpretation and the arguments against it, see statement by Malta in the First Committee of the General Assembly, A/C.1/PV.1515.

not give sufficient indication of the nature of the areas in question". The Commission also said in the same report that it was not possible "to disregard the geographical phenomenon whatever the term - propinquity, contiguity, geographical continuity, appurtenance or identity - used to define the relationship between the submarine areas in question and the adjacent non-submerged land". Likewise several of the representatives in the Fourth Committee of the 1958 Geneva Conference referred to the fact that the continental shelf was a prolongation of the mainland as the basis for extending the rights of the coastal States over it. Moreover, it is pointed out that the Commission, in the commentary on article 27 of its final draft (later article 2 of the Convention on the High Seas)[32/] said:

> "The Commission has not made specific mention of the freedom to explore or exploit the subsoil of the high seas. It considered that apart from the case of the exploitation or exploration of the soil or subsoil of a continental shelf... such exploitation had not yet assumed sufficient practical importance to justify special regulation."

It thus appears that the Commission's intention was not to deal with the "freedom to explore or exploit the subsoil of the high seas" (an expression which in itself differentiates such areas from the continental shelf), and that the Commission did not consider that the question of the régime of such areas would be automatically settled by the gradual extension of the continental shelf as the result of developing technology of exploitation. Finally, it is argued that if the International Law Commission and the Geneva Conference had had in mind the possibility of such a radical extension of national jurisdiction they would have undoubtedly made this clear.

26. The Government of France has formally adhered to the restrictive interpretation of the concept of adjacency by declaring in its instrument of accession to the Convention that with respect to article 1 "in the view of the Government of the French Republic, the expression 'adjacent' areas implies a notion of geophysical, geological and geographical dependence which ipso facto rules out an unlimited extension of the continental shelf". Two of the parties to the Convention have reserved their position as regards the declaration of the French Government concerning article 1. No party has specifically objected to it.[33/]

32/ Yearbook of the International Law Commission, 1956, vol. II, p. 278.

33/ See Multilateral Treaties in respect of which the Secretary-General Performs Depositary Functions, List of Signatures, Ratifications, Accessions, etc. as at 31 December 1967 (ST/LEG/SER.D/1), pp. 332-333.

27. Even on the view that rights in the continental shelf are always limited by the requirement of adjacency, the question of the point at which the sea-bed ceases to be "adjacent" to the land is a difficult one. Can a submarine area which is separated from dry land by a depression in the sea-bed which is too deep to admit of exploitation be considered "adjacent"? It may be recalled that the International Law Commission in 1956, in its commentary on article 67 of its final draft, stated:

> "In the special cases in which submerged areas of a depth of less than 200 metres, situated fairly close to the coast, are separated from the part of the continental shelf adjacent to the coast by a narrow channel deeper than 200 metres, such shallow areas could be considered as adjacent to that part of the shelf. It would be for the State relying on this exception to establish its claim to an equitable modification of the rule. In case of dispute it must be a matter for arbitral determination whether a shallow submarine area falls within the rule as here formulated."

Presumably the same would be true where the applicable criterion is exploitability rather than 200-metre depth.

(b) The question of the relation between the criterion of depth and the criterion of exploitability

28. According to the definition in article 1 of the Convention on the Continental Shelf, the continental ~~shelf means~~ "the seabed and subsoil of the ~~submarine areas~~ adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas". There has been considerable discussion of the mutual relationship between the two criteria of depth and of exploitability set forth in the foregoing definition.

29. Some have considered that the two criteria were completely independent of each other, and have even stated that they were mutually incompatible.[34/] On this view, the result would tend to be that only the criterion of exploitability would have a real effect. Others find no incompatibility between the two criteria, but consider

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34/ First United Nations Conference on the Law of the Sea, Official Records, vol. VI, Fourth Committee, 4th meeting, para. 16 (China); 13th meeting, para. 4 (France); 15th meeting, para. 40 (Guatemala); 17th meeting, para. 12 (Philippines).

that they are complementary, so that all coastal States, regardless of their technical capability, would automatically acquire rights up to a depth of 200 metres, but beyond that point they would do so only through actual increase of exploitability.[35]

30. Another view[36] is that the criterion of exploitability has a supplementary and subordinate function, and was intended to permit a coastal State to exercise rights over activities carried out on the continental slopes and in the continental border land in continuation of activities begun, or in connexion with those carried out, in zones with a depth of less than 200 metres. This view, however, recognizes that the development of technology might bring about the unexpected result that the criterion of exploitability, though originally intended to be ancillary, might come in practice to supplant the criterion of 200-metre depth.

31. Finally, the view has also been advanced that each criterion applies to a separate category of States; the criterion of 200 metres depth would apply to States bounded by a continental shelf, while the criterion of exploitability would apply to States having no true continental shelf.[37]

(c) The question of the meaning of the criterion of exploitability

32. The part of the definition in article 1 of the Convention on the Continental Shelf which reads "... or beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" has given rise to a number of questions. In the first place, there is a question whether, in order for a State to exercise rights in the continental shelf beyond a depth of 200 metres, there must be actual recovery of a natural resource, or whether it is sufficient simply that a possibility of such exploitation exists. The language of article 1, "admits of the exploitation", would seem to favour the latter

35/ Ibid., 13th meeting, para. 3 (Chile).

36/ L.F.E. Goldie, "A Symposium on the Geneva Conventions and the Need for Future Modifications" in The Law of the Sea (Ohio State University Press), pp. 274-276.

37/ First United Nations Conference on the Law of the Sea, Official Records, vol. VI, Fourth Committee, 14th meeting, para. 23 (Uruguay).

interpretation. It may also be recalled that paragraph 2 of article 2 of the Convention makes it clear that the coastal State has exclusive rights even if it does not explore the continental shelf or exploit its natural resources. Paragraph 3 of article 2 of the Convention provides that "The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional...." At the 1958 Conference some delegations spoke in favour of the view that a State would have rights in the continental shelf whether or not it was itself actually able to exploit the natural resources contained therein.[38/]

33. In the second place, questions have been raised as to the meaning of exploitability. Is the phrase "admits of exploitation" to be understood as requiring that there be a possibility of real economic benefit, or does a mere scientific and technical possibility of carrying on activities on the sea-bed and in the subsoil suffice?[39/] If one State, without motives of profit, carries on purely scientific activities involving, for instance, drilling in an area of sea-bed which is more than 200 metres deep, does it thereby extend its rights and those of other States in the continental shelf? If a State's activity consists simply of picking up from the sea-bed some relatively easily available natural resource such as manganese nodules, does this activity give the State rights over the resources of the subsoil, which are not exploitable by present technology? Does simple exploration constitute exploitation?[40/] If not, will not exploration of the bed of the deep sea be discouraged by lack of security of rights and of sanctions before the time when exploitation has been clearly proved possible?

34. Moreover, it has been pointed out that although article 1 of the Convention says "... to where the depth of the superjacent waters admits of... exploitation",

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38/ First United Nations Conference on the Law of the Sea, Official Records, vol. VI, Fourth Committee, 11th meeting, para. 36 (Indonesia); 14th meeting, para. 14 (El Salvador); 17th meeting, para. 29 (Guatemala).

39/ Meyer-Lindenberg, "Das Genfer Übereinkommen über den Festlandsockel", Zeitschrift für ausländisches öffentliches Recht and Völkerrecht, vol. 20 (1959-60), p. 5 et seq. Patey, "La Conference des Nations Unies sur le Droit de la Mer", Revue générale de Droit international public, 1958, pp. 446, 460.

40/ S.S. Bernfeld, "Developing the Resources of the Sea", The International Lawyer, October 1967, pp. 71-72.

there may be difficulties of exploitation from other causes than simple depth, so that even if the depth offers no obstacle, exploitation may still be impossible. In any event, it is claimed, it may be very difficult to prove that the depth permits exploitation by any other means than actual exploitation.[41]

(b) Legal scope of national jurisdiction

35. The scope of the rights of the coastal State over the continental shelf is determined in article 2 of the Convention on the Continental Shelf, which reads as follows:

> "1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
>
> "2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.
>
> "3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.
>
> "4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil."

36. In the first draft prepared by the International Law Commission in 1951, the rights granted to the coastal State were of "control and jurisdiction". In substituting "sovereign rights" for the previous formulation in its final draft in 1956, the Commission stated that the new text left no doubt that such rights covered all rights necessary for and connected with the exploration and exploitation of the natural resources of the continental shelf. However, at the same time, the

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41/ First United Nations Conference on the Law of the Sea, Official Records, vol. VI, Fourth Committee, 17th meeting, para. 51 (Netherlands); see also R. Young, "The Geneva Convention on the Continental Shelf: A First Impression", American Journal of International Law, vol. 52 (1958), pp. 733, 735.

Commission stated that it was unwilling to accept the "sovereignty" of the coastal State over the sea-bed and subsoil of the continental shelf, as it wished to avoid interpretations alien to the object of safeguarding the principle of the full freedom of the superjacent sea and the air space above it, a matter which the Commission considered to be of decisive importance.[42/]

37. During the debates in the Fourth Committee of the Conference on the Law of the Sea, some Governments were of the view that since the continental shelf was a prolongation of the mainland, the rights of the coastal State over the continental shelf should be the same as those exercised over the mainland, i.e. full sovereignty. Other Governments proposed the expression "jurisdiction and control" or the substitution of the word "exclusive" for the word "sovereign". One Government would have been satisfied with only the word "right".

38. According to article 3 of the Convention, the rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

2. Fisheries conducted by means of equipment embedded in the floor of the sea

39. As previously stated, some form of jurisdiction is exercised on the sea-bed in areas underlying the high seas with respect to fisheries conducted by means of equipment embedded in the floor of the sea. Article 13 of the Convention on Fishing and Conservation of the Living Resources of the High Seas provides as follows:

> "1. The regulation of fisheries conducted by means of equipment embedded in the floor of the sea in areas of the high seas adjacent to the territorial sea of a State may be undertaken by that State where such fisheries have long been maintained and conducted by its nationals, provided that non-nationals are permitted to participate in such activities on an equal footing with nationals except in areas where such fisheries have by long usage been exclusively enjoyed by such nationals. Such regulations will not, however, affect the general status of the areas as high seas.
>
> "2. In this article, the expression 'fisheries conducted by means of equipment embedded in the floor of the sea' means those fisheries using gear with supporting members embedded in the sea floor, constructed on a site and left there to operate permanently or, if removed, restored each season on the same site."

42/ Yearbook of the International Law Commission, 1956, vol. II, p. 297.

40. The International Law Commission stated in its commentary to the final draft of this article (article 60) that:

> "Banks where there are fisheries conducted by means of equipment embedded in the bed of the sea have been regarded by some coastal States as under their occupation and as forming part of their territory. Without wishing to describe these areas as 'occupied' or as constituting 'property' of the coastal State, the Commission considers that the special position of these areas justifies special rights being recognized as pertaining to coastal States whose nationals have been carrying on fishing there over a long period." 43/

41. The Commission also drew a distinction between two kinds of fisheries often described as "sedentary" by saying that:

> "In fact, fisheries are described as sedentary either by reason of the species caught or by reason of the equipment used. The first case concerns products attached to the bed of the sea; in the second case the 'sedentary' character of the fishery is determined by the fact that the fishing is conducted by means of equipment embedded in the bed of the sea. The Commission decided to keep the term 'sedentary fisheries' for the first type of activity only. This form of fishery is regulated by article 68 concerning the continental shelf [now article 2, paragraph 4, of the Convention on the Continental Shelf]. The second type of activity is regulated in the present article. This form of fishery is not covered by article 68 concerning the continental shelf because the species fished are mobile and therefore cannot be regarded as natural resources of the seabed in the sense in which that term is used in the aforesaid article." 44/

B. State practice as regards the geographical limits and legal scope of national jurisdiction over the sea-bed and subsoil of the continental shelf

42. State practice will be examined here with respect to the limits of the continental shelf, the method for its determination, if any, and the nature and scope of the rights asserted. National legislation will be examined in two categories showing practice prior to the opening of the Convention for signature on 29 April 1958, and practice following the opening of the Convention for signature after that date. Within these categories, selected examples have been chosen as

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43/ Yearbook of the International Law Commission, 1956, vol. II, p. 293.

44/ Ibid.

indicative of a given method or position. No conclusion is attempted in regard to particular States or the possible effects which accession to the Convention may have had in some cases.

1. Legislation

(a) Prior to the opening of the Convention for signature

43. Some States have asserted rights, usually by proclamation, over areas of the continental shelf of unspecified extent. Thus, Presidential Proclamation No. 2667 of 28 September 1945 of the United States, after expressing the view that "the continental shelf may be regarded as an extension of the land-mass of the coastal nation and thus naturally appurtenant to it", proclaimed the following policy of the United States:

> "Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the suboil and sea-bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another State, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected." 45/

The Act of 19 June 1955 of Iran and the Royal Pronouncement of Saudi Arabia of 29 May 1949 are similarly framed except that in the latter fishing rights in high seas waters and "the traditional freedom of pearling by the peoples of the Gulf" are stated not to be affected by the pronouncement.46/

44. Other States have asserted rights over areas of an unspecified extent of the continental shelf by including such areas in their national territory. In these cases, it is stated that the national territory "comprises" the continental shelf; or that the continental shelf "corresponds" to the national territory and is a part of it, the State reserving "the right of ownership in and utilization of the natural

45/ Laws and Regulations on the Regime of the High Seas, ST/LEG/SER.B/1, vol. 1, pp. 38-39.

46/ Laws and Regulations on the Regime of the Territorial Sea, ST/LEG/SER.B/6, p. 25, and op. cit. on the Regime of the High Seas, p. 22, respectively.

resources and wealth which occur or may be discovered in the sea-bed or the subsoil of the sea" (Dominican Republic Constitution of 1947 and Act No. 3342 of 13 July 1952); or it is proclaimed that the State "has, and always had full and exclusive sovereign right over the sea-bed and subsoil of the continental shelf adjoining its territory and beyond its territorial waters" (India, Proclamation of 30 August 1955).47/

45. Other States have adopted in their legislation either of the single criteria proposed by the International Law Commission at its 1951 or 1955 session. Thus, Proclamation of 3 August 1952 and Law No. 21 of 10 February 1953 of Israel include in the territorial State the sea floor and underground of the submarine areas adjacent to the shores of Israel but outside Israel territorial waters, "to the extent that the depth of the superjacent waters permits the exploitation of the natural resources situated in such areas".48/ Pakistan has declared in a Declaration of the Governor General dated 9 March 1950 that "the sea-bed along the coast of Pakistan extending to the one hundred fathom contour into the open sea shall with effect from the date of this declaration be included in the territories of Pakistan".49/ In Act No. 2080 of 21 March 1956 of Portugal the sea-bed and subsoil of the submarine platforms are stated to belong to the public domain of the State, although "except as otherwise provided by special legislation, concessions shall not be granted in the continental shelves beyond the part bounded by the line at which the water attains a depth of 200 metres".50/

46. Some States have asserted rights to the sea-bed together with rights over the superjacent waters. Thus Argentina has asserted rights of this kind on the basis of the doctrine of "epi-continental sea", by Decree No. 14708 of 11 October 1946, which declared "that the Argentine epi-continental sea and continental shelf are subject to the sovereign power of the nation". For purposes of free navigation

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47/ Op. cit. Regime of the High Seas, p. 15, op. cit. Regime of the Territorial Sea, pp. 11-12 and Supplement to Laws and Regulations on the Regime of the High Seas (vols. I and II), ST/LEG/SER.B/8, pp. 13-14.

48/ Op. cit. Supplement, p. 14.

49/ Op. cit. Regime of the Territorial Sea, p. 38.

50/ Op. cit. Supplement, p. 16.

the character of the waters in the epi-continental sea are declared to remain unaffected.[51/] Later enactments by other States have established fixed geographical limits for the jurisdiction over the continental shelf. Thus, Honduras by Congressional Decree No. 25 of 17 January 1951 declared "its sovereignty over the continental shelf and waters covering it at whatever depth it lies and whatever its extent", the protection and supervision of the State extending to 200 sea miles from the coast. The Declaration "does not deny similar lawful rights of other States nor affect the freedom of navigation recognized in international law". By Presidential Proclamation of 18 January 1952 the Republic of Korea proclaimed its sovereignty over the continental shelf and over the seas adjacent to such coasts for the purposes of reserving, protecting, conserving and utilizing the resources of the seas. This proclamation established lines of demarcation of such "zone of control and protection of the national sea resources" and also stated that the rights of free navigation of the high seas were not affected.[52/]

47. Chile and Peru by Presidential Declaration of 23 June 1957 and Presidential Decree No. 781 of 1 August 1947 have, respectively, declared that their sovereignty extends over the continental shelf "whatever may be its depth below the sea", for the protection and control of all natural resources in the continental or insular seas up to a distance of 200 nautical miles from the coast. Congressional decree dated 21 February 1951 of Ecuador provided that the continental shelf contiguous to the coast of Ecuador belongs to the State, which shall exercise the right of use and control to ensure the conservation of said property, the continental shelf being defined as all submerged land contiguous to the continental territory of Ecuador "where the depth of the superjacent waters does not exceed two hundred metres". This decree further provided that if under any international treaty or convention the areas for maritime policing or protection are greater than those established in that decree, the provisions of such agreement shall prevail.[53/] Chile, Ecuador and Peru signed an agreement at Santiago, Chile, on 18 August 1952,

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51/ Op. cit. Regime of the High Seas, p. 5.

52/ Op. cit. Supplement, p. 10; op. cit. Regime of the Territorial Sea, pp. 30-31.

53/ Op. cit. Regime of the High Seas, pp. 6, 16 and 300.

containing a "Declaration on the Maritime Zone" in which they "proclaimed as a principle of their international maritime policy that each of them possesses sole sovereignty and jurisdiction over the area of sea adjacent to its coast and extending not less than 200 nautical miles from the said coast". This "sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and subsoil thereof". The declaration also stated that it "shall not be construed as disregarding the necessary restrictions on the exercise of sovereignty and jurisdiction imposed by international law to permit the innocent inoffensive passage of vessels of all nations through the zone aforesaid". The preamble of the declaration mentioned the duties of the Governments to ensure the conservation and protection of their natural resources and to prevent such resources from being used outside the area of their jurisdiction to the prejudice of peoples so situated geographically that their seas are irreplaceable sources of essential food and economic materials.[54/] Costa Rica has acceded to the Protocol of Accession to the Declaration on 5 October 1955.

(b) Following the opening of the Convention for signature

48. Out of the twenty-two States which transmitted to the Secretariat legislation concerning the continental shelf,[55/] thirteen were parties to the Convention. Some of these States incorporated in their legislation the definition of the continental shelf contained in the Convention or asserted sovereign rights by making reference to the Convention. Some States in applying the Convention designated areas within which rights with respect to the sea-bed and subsoil are exercisable. One of them designated each of such areas as an "adjacent area". In one case legislation adopted before accession to the Convention made no reference to the element of adjacency in its definition of the continental shelf. In another case, legislation incorporating the definition of the continental shelf contained in the Convention provided that the sea-bed and the subsoil of depressions entirely

54/ Op. cit. Regime of the Territorial Seas, pp. 723-724. See declaration of the chairmen of the delegations of Chile, Ecuador and Peru, document A/CONF.13/L.50 in First United Nations Conference on the Law of the Sea, Official Records, vol. II, Annexes, p. 132.

55/ See document A/AC.135/11.

surrounded by the continental shelf irrespective of their depth were part of the continental shelf. Two States parties to the Convention do not appear to have adopted implementing legislation.

49. Nine of the States which transmitted legislation were not parties to the Convention. Of these, two defined the continental shelf in terms which follow closely the definition of article 1 of the Convention. Three other States based their definition on either of the single criteria proposed by the International Law Commission at its 1951 and 1953 sessions. Of these three States, one adopted the 200-metre formula and the other two the criterion of exploitability.

2. Bilateral agreements

50. A number of bilateral agreements have been concluded in recent years for the delimitation of the boundaries of the continental shelf.[56] The agreements provided or indicated by Governments to the Secretariat[57] fix rights as between the parties to the agreements. The agreements generally follow the principle contained in article 6 of the Convention according to which "the boundary is the median line every point of which is equidistant from nearest points of the baselines from which the breadth of the territorial sea of each State is measured". No information is available on whether the parties have applied either or both of the tests of article 1 of the Convention, although some of the agreements appear to involve an interpretation of the concept of "adjacency".[58]

56/ On 20 February 1967, Denmark and the Federal Republic of Germany requested the International Court of Justice to determine the principles and rules of international law applicable to the delimitation as between them of the continental shelf in the North Sea, beyond the lines of partial delimitation fixed under their agreement of 9 June 1965. The Netherlands and the Federal Republic of Germany on the same date made a similar submission to the Court concerning their agreement of 1 December 1964. Both cases are pending before the Court.

57/ See document A/AC.135/11.

58/ It has been suggested that the Anglo-Norwegian agreement of 10 March 1965 answers affirmatively the question whether the Norwegian Trough is only a depression of the continental shelf (see L.F.E. Goldie, op. cit., pp. 277-279, and Arthur Dean, ibid., p. 249). The International Law Commission dealt with the question of whether or not shallow areas, situated fairly close to the coast and separated by narrow channels from the part of the continental shelf adjacent to the coast should be considered as adjacent to that part of the shelf (paragraph 8 of the 1956 commentary of the Commission, reproduced in this study, paragraph 19). The case of the Norwegian Trough was analysed in "scientific considerations relating to the continental shelf". First United Nations Conference on the Law of the Sea, Official Records, vol. I, preparatory documents, pp. 43-44, paragraphs 32 and 34).

51. The Anglo-Venezuelan treaty of 26 February 1942, which is generally regarded as the forerunner of the Proclamations concerning the continental shelf made shortly after the Second World War, recognized rights which "have been or may hereafter be lawfully acquired" by the parties to certain specified submarine areas of the Gulf of Paria lying between the Island of Trinidad and Venezuela.59/

59/ Op. cit. Regime of the High Seas, p. 44.