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COMMITTEE ON THE PEACEFUL USES
OF THE SEA-BED AND THE OCEAN
FLOOR BEYOND THE LIMITS OF
NATIONAL JURISDICTION

LETTER DATED 23 APRIL 1971 FROM THE REPRESENTATIVE
OF BELGIUM ADDRESSED TO THE SECRETARY-GENERAL

At the last meeting of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, on 26 March 1971 at Geneva, it was suggested that the work of Sub-Committee II might be furthered if members were to send the Secretariat a list of subjects that might be appropriate for discussion and inclusion in the comprehensive list which the Sub-Committee is to prepare.

The representative of Belgium has the honour to present to you herewith certain items which he feels should be included in the list:

- (1) the question of the breadth of the territorial sea;
- (2) the question of the limits of the continental shelf;
- (3) navigation through international straits which would come within the territorial sea of one or more States if the said territorial sea is extended;
- (4) jurisdiction over artificial islands, or artificial installations on the high seas.

Items 1, 2 and 3 do not require any lengthy justification: they are important questions which were not clearly settled by the 1958 conventions.

Item 4 requires some comment. The Belgian Government received a proposal from a private source for the off-shore construction, more than twenty-seven kilometres from the Belgian coast, of an artificial port for the unloading of heavy tankers. The proposed site is on the Belgian continental shelf. However,

the Convention on the Continental Shelf, done at Geneva on 29 April 1958, confers on the coastal State sovereign rights only "for the purpose of exploring it and exploiting its natural resources" (article 2).

Article 5 (2) gives the coastal State the right "to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources...". It is specified in article 5 (4) that "such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands".

It follows clearly from these provisions that an installation which is not used for the exploration or exploitation of the natural resources of the continental shelf does not come under the jurisdiction of the coastal State. This would apply to an artificial structure the only purpose of which is to serve as a port. Furthermore, such installations on the high seas would not have a flag since they are not vessels.

In the event that structures of this kind were to be built, they could not be included within any jurisdiction under the existing international law. Thus there appears to be something of a judicial and juridical vacuum, at variance with international public order. The problem is not only theoretical, since the proposal submitted to the Belgian Government concerns a structure covering an area of 170 hectares which would of necessity be permanently occupied.

Technical advances give every reason to assume that structures of this kind will proliferate in the future. It seems appropriate to submit to Sub-Committee II for consideration a question which has not been resolved by the existing international law of the sea.

Accept, Sir, etc.

(Signed) Alfred van der ESSEN
Representative of Belgium
