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

SUB-COMMITTEE II

# PROVISIONAL SUMMARY RECORD OF THE SIXTY-FOURTH MEETING*

held at the Palais des Nations, Geneva,
on Monday, 16 July 1973, at 3.30 p.m.

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| Chairman: | Mr. GALINDO POHL | El Salvador |
| Rapporteur: | Mr. ABDEL-HAMID | Egypt |

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CONSIDERATION OF QUESTIONS REFERRED TO THE SUB-COMMITTEE BY THE COMMITTEE UNDER THE TERMS OF THE "AGREEMENT REACHED ON ORGANIZATION OF WORK" AS READ OUT BY THE CHAIRMAN AT THE 45TH MEETING OF THE COMMITTEE HELD ON 12 MARCH 1971 (A/AC.138/89, 91, 92; A/AC.138/SC.II/L.15, A/AC.138/SC.II/L.16/Rev.1, A/AC.138/SC.II/L.17 - 21; A/AC.138/SC.II/L.22/Rev.1, A/AC.138/SC.II/L.23 - 37) (continued)

The CHAIRMAN noted that eighteen new proposals had been submitted for consideration by the Sub-Committee and he invited their sponsors to open the discussion by introducing them.

Mr. BUSTAMENTE (Ecuador) introduced document A/AC.138/SC.II/L.27, which was submitted jointly by his delegation and those of Panama and Peru.

The draft articles contained in the document were based on certain fundamental ideas relating to the new law of the sea which were becoming ever more widely accepted. They were in contrast to the ideas which the great maritime and trading powers had formerly upheld in order to ensure their own sole hegemony over shipping routes and ocean resources, and which had been based on the principle that the sea was at the disposal of anyone who had the power to exploit it.

It was now essential to establish a law under which the international community would respect the right of all States to ensure that the resources of the sea adjacent to their coasts were used for the benefit of their own peoples. The indissoluble geographical and ecological links which existed between the land and its adjacent waters, together with the socio-economic needs of their peoples, had prompted Ecuador, Chile and Peru over thirty years previously to declare their sovereignty and jurisdiction over the sea adjacent to their coasts for a distance of 200 nautical miles, and the majority of other coastal States, particularly the developing countries, had since made similar declarations for the same reasons. It was clear both from statements which had been made and from documents which had been submitted that such declarations were gaining ever-increasing support in Sub-Committee II and its parent Committee. Ecuador was in sympathy with all proposals advocating recognition of the rights of coastal states over their adjacent waters, the extent of which should be determined by each State for itself, within the limit of 200 miles from the applicable baselines and with due regard to all relevant physical, economic and social factors. He noted with satisfaction that the members of the Sub-Committee seemed to support that view, which he believed would have to be enshrined in the Convention.

Document A/AC.138/SC.II/L.27 divided the sea into two zones: adjacent and international. Neither should be controlled solely by the few countries which had the power to exploit them. The traditional freedom of the international sea, notably transit and communications, must be preserved, but it should also be subject to international regulations governing activities such as fishing and hunting and the protection of the marine environment, its living resources and the health of mankind. The urgent need for such regulations was thrown into sharp relief by the current international concern over nuclear tests at sea and the destruction and pollution they were known to entail.

With regard to the adjacent sea, he pointed out that the United Nations General Assembly had repeatedly proclaimed the sovereign right of each country to dispose of its own natural resources in the interests of economic development and for the good of its people, and that the third United Nations Conference on Trade and Development had recognized the right of coastal States to dispose of the resources of the sea within the limits of their national jurisdiction. It followed that coastal States must be entitled to take measures to safeguard their sovereignty over such resources, to prevent pollution of the marine environment and to regulate scientific research, and that need was provided for in some of the documents before Sub-Committee II and its Working Group. One of the most important of those documents stated that both scientific research and pollution control were subject to the jurisdiction of the coastal State within the zone over whose resources that State had sovereignty according to the terms of that document.

His delegation maintained that a coastal State must have powers of that kind in order to dispose effectively of the resources of the zone over which it proclaimed sovereignty. In document A/AC.138/SC.II/L.27 the basis of such powers was considered to be sovereignty itself, in other words the independence of the State and the inherent power of self-determination which enabled it to establish and administer a legal system. No extraneous authority, therefore, but the State's own legal will empowered it to extend its jurisdiction to the adjacent sea over which it proclaimed sovereignty. The use of any outside source of power would weaken the rights of the State to the resources of that zone and alienate them from the people to whom they belonged, whose will could only be expressed by their own State. He welcomed the proposals submitted by Brazil and Uruguay, in which the jurisdiction of the State over the sea adjacent to its coasts was likewise based on sovereignty.

Document A/AC.138/SC.II/L.27 contained nothing which could adversely affect the legitimate use of the sea within the zone subject to the sovereignty of the coastal State for transit and communications by the international community. Ecuador attached much importance to such uses, and accordingly Article 4 of the draft dealt specifically with freedom of transit for vessels and aircraft of any flag, without restrictions other than those needed to promote peaceful co-existence, the effective utilization of the zone, the protection of its resources and the safety of its users. The laying of submarine cables and pipelines was also provided for on similar conditions. Regulations laid down by the coastal State were indeed in the interests of the international community, for they merely formulated the obligations which States and their vessels and aircraft must fulfil in order to enjoy the benefits of free transit and communication.

As a distinguished Latin American jurist had once pointed out, the existence of the territorial sea and the so-called freedom of the seas were not mutually exclusive, and therefore no extension of the territorial sea, large or small, could make it incompatible with the jus communicationis. Consequently the sovereignty of a State over 200 miles of the adjacent sea should not be regarded as an impediment to transit and communications within that zone.

In document A/AC.138/SC.II/L.27 the area of the sea under the sovereignty of the coastal State was considered to include the surface, the water column, the sea-bed and the subsoil, together with all their renewable and non-renewable resources and the airspace above them. As members were aware, non-renewable resources such as petroleum were becoming vitally important in the development of many States.

Where the preservation of fisheries and their utilization for the highest public good were concerned, the sovereignty of the State was expressed in regulations governing the prospecting and exploitation of living resources in its waters. Only action of that kind could effectively safeguard those resources against the threat of illegal practices. It protected all the species present in the water without impairing the principle of sovereign equality of States and without applying criteria such as that of the catch potential, which, if accepted, would greatly damage the rights and aspirations of the less developed countries. The new law of the sea must be based on justice, a concept which was incompatible with the proposed sharing out of certain species of fish and with the idea of limiting the rights of the coastal State with respect to its catch potential. Both those ideas were incompatible with sovereignty.

Draft article 14 dealt with the important task of promoting co-operation and consultation among the various regional and sub-regional bodies concerned with maritime questions. The waters adjacent to coastal States of course differed widely from one region to another, so that the interests of the States and their relations with other countries were also very varied. In the South Pacific sub-region, for example, Chile, Peru and Ecuador had adopted a common policy with regard to the sea as early as 1952. They had also had the invaluable services of the South Pacific Commission, which had co-operated with various national and international organizations in identifying the natural resources of the adjacent seas, rationalizing the exploration and exploitation of those resources and improving conservation measures.

In draft article 13 the authors had recognized the need to provide a preferential régime with respect to renewable resources for countries which were unable to extend the limits of their sovereignty up to distances equal to those adopted by other coastal States in the same region or sub-region.

Although the working paper he was introducing was limited to aspects of the law of the sea to which his Government attached special importance, it was in keeping with the position held by his delegation both in Sub-Committee II and in the parent Committee. It was submitted without prejudice to additional statements which his Government might wish to make at a later stage. After the representatives of Peru and Panama had made their introductory statements on the working paper, he would be prepared to participate in providing any clarifications which might be needed and in co-ordinating the proposals in question with others on the same subject.

Mr. ESPINO-GONZALEZ (Panama) said that he wished to refer in particular to the first two articles of document A/AC.138/SC.II/L.27. On 2 February 1967 the National Assembly of Panama had promulgated a law extending the country's sovereignty over the territorial sea to a distance of 200 nautical miles. In so doing it had identified itself with the principles laid down in the Declaration on the Maritime Zone, signed in 1952 by the Governments of Chile, Ecuador and Peru. The Declaration stated that Governments had a duty to promote the economic development of their peoples and must consequently conserve and protect their natural resources and regulate the use of them to the best advantage of their respective countries.

It followed that it was also the duty of Governments to prevent the existence and the preservation of such resources, on which their peoples depended for subsistence, from being endangered by exploitation beyond their jurisdiction. Panama had also extended its territorial waters the better to defend its territory and to maintain the neutrality of the Panama Canal. He described the geographical nature and location of Panama: it had over 2,200 kilometres of coastline, over 1,600 islands and 503 rivers and was situated on a broad continental shelf covered with shallow water. These features created a favourable environment for phytoplankton, and there was therefore an abundance of fish, as the very name of the country signified in the aboriginal language. The extension of Panama's territorial sea was also justified on purely practical grounds. He quoted article 104 of its Constitution, which referred to the State's duty to ensure the highest possible standard of nutrition for the whole population. The sea was, for Panama, among other things, a primary source of animal protein. Again, article 236 of the Constitution referred to the exploitation of the wealth belonging to the State of Panama both on land and on the sea-bed, and article 227 mentioned the territorial sea and coastal waters and rivers.

At the 1958 United Nations Conference on the Law of the Sea his country's delegation had helped to formulate article 2 of the Convention on the Continental Shelf. It had made the point that the coastal State had exclusive rights over the resources of the continental shelf, in the sense that if it did not prospect or exploit them itself, no-one else could without its permission; and furthermore, that no physical occupation of the continental shelf or express declaration was needed to establish those rights.

Most countries had laws governing the exploitation of natural deposits within their territory, and Panama was no exception. The new law of the sea would therefore have to be harmonized where necessary with national constitutions and legislation. He was in agreement with other delegations concerning the rule about advance notification and consultation with coastal States, and also shared the view that prospecting and exploitation, even within an extended zone of jurisdiction, should be carried out with due respect for the legitimate rights or interests of the coastal State, on the basis of the principles laid down in the first two articles of document A/AC.138/SC.II/L.27.

Finally, his delegation did not share the opinion which had been expressed concerning the protection of the economic interests of coastal States more than 12 miles from their coasts, in the area which some delegations referred to as the high seas. It also did not favour the idea that the privileges of the coastal States should increase in proportion to their catch potential; that would not suit small countries with long coastlines. To assume that because a particular developing country did not possess a modern fishing fleet at present, it would not have one in the future, would be to invite certain industrialized countries to indulge in indiscriminate fishing in the territorial waters of the developing countries, especially those which had extended their territorial sea to 200 miles.

Mr. BAIKULA (Peru) said that the working paper submitted jointly by his delegation and those of Ecuador and Panama - countries with which his own had particularly strong historical ties and common interests - was intended as a contribution to the work of the Sub-Committee, without prejudice to the position which his Government would adopt at the appropriate time. He pointed out that the present titles in the document were only provisional.

He recalled how, following a series of individual declarations beginning with those made by the United States in 1939 and 1945, a revision of the old doctrines relating to control of the sea had led to the convention of 1952 whereby Chile, Peru and Ecuador had established their exclusive sovereignty and jurisdiction over the territorial waters extending for 200 miles from their coasts. The agreements relating to the South Pacific System had given a tremendous boost to economic and social development; Peru's catch of fish in 1970 had risen to 10½ million tons, for which it had received foreign exchange equivalent to US$ 340 million, or 32 per cent of its total foreign exchange earnings. As to the amount of fish for human consumption, the projected size of the 1975 catch was 600,000 tons, which would make it possible to raise the annual per capita consumption of fish in Peru, where the population was threatened by a growing protein deficiency in its diet, to about 40 kilos. Those figures underlined the importance of fish to Peru and explained why his delegation would shortly submit a draft on the subject of fisheries.

Turning to the working paper (A/AC.138/SC.II/L.27), he felt obliged to comment first on the division of the sea into two principal zones. The limits of the "adjacent sea", as it had been called provisionally, were to be established in

accordance with certain specified criteria up to a maximum distance of 200 nautical miles. Beyond that limit were the "international seas", which, unlike what used to be called the "high seas", was a zone in which certain restrictions had to be imposed for the common good. He drew attention in particular to articles 18 and 19 of the working paper.

The adjacent sea was subject to the sole sovereignty of the coastal State, which could establish and agree on international rules to protect its rights and interests.

Articles 9 and 10 of the draft were concerned with pollution control and scientific research, topics on which, incidentally, his delegation was in the process of preparing two working papers.

Section IX dealt with land-locked countries, a subject in which his country had shown particular interest. The draft was by no means intended to be exhaustive, and every part of it was open to amplification. Furthermore, it was clear that all the problems which had been tackled would require further study and that many of the ideas expressed by delegations were of a tentative or preliminary nature. For that reason in considering all the draft documents it was necessary in each case to distinguish the underlying principles from the rest of the material.

His country shared the belief that the work of the Committee must proceed in the light of values if it was to achieve lasting results. It would be unrealistic, however, to pretend that the whole structure of law relating to the sea was not under dispute. Third World countries had long criticized many of the principles which for them were part of the legacy of the colonial era. One such pseudo-value was the so-called freedom of the seas, which had not been real freedom because only a few countries had enjoyed it.

Freedom of navigation and freedom of trade were not being put in question and were not at risk. Those principles must not be invoked, however, to serve as a mask for activities which were not in the general interest. Only principles which were compatible with the general interest should be regarded as just. The aim of the Committee must be to find a formula which took into account the maritime policies of all countries. In any human undertaking it was essential that objectives should be defined and that everyone involved should know what he was trying to achieve. That also applied to the Committee in its present task. Any structure of law was not an end in itself but an instrument for guiding a particular kind of human activity.

In conclusion, he wished to enumerate what his country regarded as some of the ultimate aims of the reformulation of the law of the sea: first, the protection and exploitation of natural resources for the benefit of the coastal State; secondly, the prohibition of international coercion and of aggression or the threat of aggression against countries which were reclaiming their natural resources; thirdly, effective participation in major markets; fourthly, management of private firms or transnational enterprises in the interests of the nation concerned and of the countries of the region; fifthly, the promotion of conditions conducive to the independence and creative development of culture, science and technology; sixthly, the vigorous promotion of regional integration; and lastly, the breaking of the legal structures of domination which served the centres of maritime hegemony.

General Assembly resolution 2750 C (XXV) reflected the express will of the nations to deal with the problem of the sea as a whole, in all its complexity and to give it an essentially political colouring. Accordingly the Preparatory Committee had been called upon to draft not "a" Convention but "the" Convention on the law of the sea, which must take account of the conditions brought about by scientific and technological development and the needs of a changed human society. The interests at stake, in their new forms, were to be expressed in definitive terms within a harmonious and balanced whole, capable of giving rise to a new order in ocean space at the service of the peoples of the world and of peace and the common good.

Mr. SARAIVA GUERREIRO (Brazil), introducing his delegation's proposal, document A/AC.138/SC.II/L.25, said that its draft articles dealt only with the question of the maximum breadth of the territorial sea and other modalities or combinations of legal régimes of coastal State sovereignty, jurisdiction or specialized competences. They were based on recognition of the fact that geographical factors relevant to the determination of the rights and responsibilities of States in the marine area adjacent to their coasts, and also the social, economic and national security needs of individual States and regions, were not uniform.

Any legal framework adopted at the forthcoming United Nations Law of the Sea Conference might usefully include a statement of basic principles applicable to the whole of ocean space, along with flexible provisions, such as those in the Brazilian proposal, for application by States, individually or collectively, with due regard for regional, sub-regional and national circumstances. That legal framework would

subsequently be complemented by more specific international, regional, or sub-regional conventions, agreements or protocols dealing with particular aspects of the law of the sea, establishing uniform rules or standards, and if necessary attributing specified functions to multilateral organizations. Coastal States would be responsible for ensuring the observance of the basic principles in areas under their sovereignty and jurisdiction.

Those principles, which would reflect interests common to all States, might comprise: respect for the principles and purposes of the United Nations Charter, particularly those relating to the strengthening of international peace and security and the promotion of economic development; rational utilization of the resources of ocean space, bearing in mind the particular needs and interests of the developing countries; preservation of the marine environment and prevention of pollution and other causes of serious damage to the marine environment; guarantees for the safety of communications, human life at sea, navigation, installations and equipment; access to the sea for land-locked countries, and prevention and control of the disruptive economic effects of exploration and exploitation of the resources of the ocean.

Mr. AKYAMAÇ (Turkey) said that the two Turkish proposals, in documents A/AC.138/SC.II/L.16/Rev.1 and A/AC.138/SC.II/L.22/Rev.1, had been revised in consultation with several delegations in the light of observations made at the Committee's preceding session. As his delegation had stated when introducing the original proposal (A/AC.138/SC.II/L.16), although Turkish national legislation fixed a six-mile territorial sea limit, Turkey would be prepared to agree to a higher maximum limit if such a limit was supported by a consensus of opinion in the Committee and the Conference, provided that the right to fix the breadth of the territorial sea within that maximum limit was not considered an absolute right to be exercised without regard to the special circumstances of the particular region.

In some areas the decision by one State to extend its territorial sea beyond the present limit, on the basis of some of the proposed provisions of the convention, would seriously jeopardize the interests of another State and might even deprive it of freedom of navigation to and from its own territorial sea. That applied especially to the Turkish coast, where some offshore islands belonged to another State. It would be paradoxical for a convention which recognized the right of land-locked countries to

access to the sea to include provisions which would make it possible to deny a State access to its own territorial sea. Such a provision would be unjust and dangerous if the right to determine the breadth of the territorial sea was not qualified to allow for special circumstances in individual cases. The Turkish proposal was intended to remedy the inadequacy of other proposals, except the one submitted by Brazil, in that respect.

He wished to make it clear that the draft article proposed by Turkey in document A/AC.138/SC.II/L.16/Rev.1 was not concerned with delimitation, but with the manner in which the right to determine the breadth of the territorial sea should be exercised. The question of delimitation might of course arise where a State decided to change the breadth of its territorial sea. However, the proposals submitted by Greece and Cyprus in documents A/AC.138/SC.II/L.17 and L.19 respectively, advocating the median line as the criterion for delimitation, could more appropriately be considered under the item dealing with delimitation. Both proposals disregarded the question of the régime of islands, for which special provisions were to be drafted on the basis of the OAU Declaration. The problem of delimitation would arise only after a State decided to determine the limits of marine areas in accordance with that régime.

The drafts proposed by Greece and Cyprus gave prominence to the rôle of agreement in matters of delineation, relegating multilateral means of resolving differences to the background. In effect they reaffirmed article 6 of the 1958 Geneva Convention, which permitted injustice in certain cases. In his opinion, unilateral delineation of the continental shelf between adjacent or opposite States without prior agreement with the other State did not constitute a basis for the recognition of acquired rights and was devoid ab initio of any legal consequence. The Turkish proposal in document A/AC.138/SC.II/L.22/Rev.1 was designed to ensure justice and equity in such cases and to safeguard the interests of States against de facto encroachment. The new paragraph 3 in that proposal provided for recourse to peaceful means of resolving differences where the parties failed to reach agreement.

The concept of the indivisibility of sovereignty, to which Turkey also subscribed, was irrelevant to the determination of the extent of national jurisdiction or sovereign rights. The claim that the sovereign rights of a State would be put at risk in the cases mentioned was based on inaccurate premises. The fact that an island close to another State was not accorded the same marine space as another island farther away from that State did not mean the division of sovereignty. Such a case was no different from that of an island which, because it was situated on the continental shelf of another State, did not have the same rights as another island not on that continental shelf. That view was supported by the Judgement of the International Court of Justice in the North Sea Case. However, a special régime was clearly needed for the just and equitable determination of the continental shelf area of island and archipelagic States.

Mr. ZOTIADES (Greece) said that the 1958 Geneva Convention had been drafted in conformity with the letter and the spirit of the United Nations Charter, enshrining former concepts rooted in international legal theory and practice and codifying pre-existing international law. Some areas of the law of the sea should be reviewed in the light of current international trends and technological progress, but Greece saw no reason to depart from present international law with regard to the régime of islands. The novel concept of that régime presented in the OAU Declaration would, if adopted, entail a denial of the principle of the indivisibility of territorial sovereignty and the violation of the sovereign rights and territorial integrity of States as laid down in the United Nations Charter. The principle of the sovereign equality of States was the cornerstone of international law and the basis of international relations. The sovereignty exercised over territory, whether continental or insular, extended to the territorial seas, the air space over the territory and the territorial sea-bed and sub-soil.

According to the 1958 Convention, the continental shelf was also under the sovereignty of the coastal State "for the purpose of exploring it and exploiting its natural resources". Any proposal dividing territorial sovereign rights in the case of islands according to such criteria as size, population, geographical situation and geological configurations undermined the very basis of international legal order. The concept of territory, as one of the three elements of the concept of the State, included not only continental but also island territory, and a State's

jurisdiction within its territory was exclusive and absolute; that idea had frequently been upheld by international courts and tribunals. Under article 10 of the Geneva Convention on the Territorial Sea and Contiguous Zone, every island was entitled to its own territorial sea. That was a fundamental rule deeply rooted in international legal theory and practice.

Furthermore, a State's sovereignty over its territory was not negotiable. There was no conceivable situation in which the breadth of territorial sea would depend on legal criteria such as size, population, location or geological configuration. The application of such criteria would deprive certain islands of their territorial sea. It would have the effect of sanctioning discrimination among States, since it was proposed that only the special interests of island States and archipelagic States should be recognized. There was also a danger that such criteria, if accepted in the case of islands, might, by the same logic, be proposed for the delimitation of the territorial sea of all States: large, populous States would then be entitled to a large territorial sea, while small, under-populated States in the "wrong" location would have only limited sovereign and other territorial rights. That would be a denial of the principle of the equality of States. Moreover, the inhabitants of islands accorded limited sovereign rights on such a basis would themselves become second-class citizens of the metropolitan State.

The proposed convention should be in harmony with the United Nations Charter, especially Articles 1, 2 and 103. As far as the continental shelf was concerned, there was no need to deviate from existing international law, as embodied in the 1958 Geneva Convention on the Continental Shelf. The notion of special circumstances invoked in Article 6 of that Convention had given rise to disputes and should perhaps be clarified, since it could be interpreted as sanctioning certain unwarranted exceptions.

The exclusion of islands from continental shelf delimitation was unacceptable. The "special circumstances" mentioned in a draft article before the Sub-Committee could be taken to include islands or islets, and could thus lead to discrimination against the large number of States whose territory consisted wholly or partly of islands.

He welcomed the unqualified statement in article 1, paragraph 1, of the draft articles proposed by Colombia, Mexico and Venezuela in document A/AC.138/SC.II/L.21, and the definition of the term "continental shelf" in article 13 (b). The notion of equitable principles invoked in other drafts introduced an element of subjectivity and ambiguity, especially in the case of opposite and adjacent States, where the applicable rule was that of equidistance. That rule, embodied in the 1958 Geneva Conventions, was well founded in international practice and constituted the norm of general international law. In the case of narrow seas, where the full legitimate breadth of the territorial sea could not be applied by opposite and adjacent States and the States could not agree otherwise, the equidistance principle offered a pragmatic solution consonant with the principle of equality.

With regard to the Turkish proposal in document A/AC.138/SC.II/L.16/Rev.1, he said that paragraph 2 did not go far enough, since provision should be made for the failure of the two parties to agree. For that reason he had suggested, in document A/AC.138/SC.II/L.17, an amendment to the Turkish proposal to provide for the case of non-agreement. The aim of mutual agreement should be complemented by an obligatory norm of law, bringing into force the principle of equidistance, which was enshrined in the Geneva Convention of 1958.

He said that the same principle was involved also in the draft article, proposed by Turkey in document A/AC.138/SC.II/L.22/Rev.1. The obligation on States to agree mutually on equitable principles referred to in paragraph 1, obviously merited support, but if negotiations broke down, the applicable principle of international law, namely that of equidistance, should not be abandoned in favour of the vague concept of equitable principles. Paragraph 2, by introducing a reference to "special circumstances", specifically opened the way to derogations from the law, and paragraph 4 appeared to imply that such special circumstances might take precedence over the established legal principle of equidistance.

He recalled that the territorial waters of Greece had been delimited in a series of international agreements between 1923 and 1971 and, while his Government had no ambition to extend the territorial waters of Greece, it would never abandon the principle of the indivisibility of sovereign rights.

Referring to the proposal by Fiji, Indonesia, Mauritius and the Philippines in document A/AC.138/SC.II/L.15, he said that his delegation supported the archipelagic principles developed therein, on the understanding that ships of all States, whether coastal or not, should enjoy the right of innocent passage through the archipelago in accordance with the applicable rules of international law.

He believed that the Law of the Sea Conference would lead to a progressive development of International Law, but it would only do so if States approached the unresolved problems in a spirit not only of accommodation, but also of respect for the principles of the Charter and the fundamental principles of existing law.

Mr. AKYAMAÇ (Turkey) said that his proposal in document A/AC.138/SC.II/L.16/Rev.1 did not in fact deal with the delimitation of territorial waters. The principle, which he was attempting to establish, was that since no two areas were identical, a general rule could not be held to apply throughout the world. The same idea was contained in paragraph 3 of draft article A in the Brazilian proposal (A/AC.138/SC.II/L.25). Where specific characteristics existed, the right to make changes should only be exercised by agreement of the States. Whereas international law recognized the free transit to and from land-locked countries, it would be unwise to promulgate a law, enabling a State to interfere with the navigation rights of another State.

Regarding the treaties invoked by the representative of Greece, he said that he was not aware of any provision in the Treaty of Lausanne, 1923, to limit the breadth of the territorial sea. That Treaty did stipulate that islands within three miles of the Turkish coast belonged to Turkey. The other treaties dealt mainly with the demarcation of the sea boundary at the land border.

Mr. ZOTIADES (Greece) said that, irrespective of any differences of aim or content in the two Turkish proposals, the vital question was the procedure to be followed in the event of failure to agree. He emphasized once again that the fundamental rule of law was the principle of equidistance or the median line.

The meeting rose at 6.05 p.m.