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DRAFT ARTICLES ON THE CONTINENTAL SHELF

Report of the Sixth Committee

Rapporteur: Mr. M.F. ADAMIYAT (Iran)

1. At its fifth session, held from 1 June to 14 August 1953, the International Law Commission prepared final draft articles on the continental shelf, and recommended that the General Assembly should adopt them by a resolution.<sup>1/</sup>
2. By its resolution 798 (VIII) of 7 December 1953, the General Assembly decided "not to deal with any aspect of the régime of the high seas or of the régime of territorial waters until all the problems involved have been studied by the International Law Commission and reported upon by it to the General Assembly".
3. In their joint letter of 20 August 1954 (A/2706) addressed to the Secretary-General, the delegations of Brazil, China, Liberia, the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations, requested that the following item be included in the agenda of the ninth session of the General Assembly: "Draft articles on the continental shelf". An explanatory memorandum was attached to the letter in conformity with rule 20 of the General Assembly's rules of procedure.

<sup>1/</sup> See Official Records of the General Assembly, Eighth Session, Supplement No. 9, document A/2456, chapter III.

4. Subsequently, by letters addressed to the Secretary-General and dated 18 and 21 September 1954 (reproduced respectively in documents A/2706/Add.1, Add.2 and Add.3), the delegations of Nicaragua, Honduras and Bolivia associated themselves with the delegations named above.

5. In their explanatory memorandum, the said delegations stated that it would be desirable for the Assembly to consider and attempt to solve, one at a time, the numerous segments of the very broad general subject of the régime of the high seas and territorial waters, as those segments are completed by the International Law Commission. After presenting arguments in support of this view, they stated that consideration of the International Law Commission's draft articles on the continental shelf by the Assembly should not be postponed for an indefinite, and possibly great, number of years. However, since a number of Governments had indicated that they would prefer to study the draft articles further before reaching conclusions in relation to all of their details, the delegations in question expressed the belief that it would be desirable to delay substantive consideration of these articles until the tenth session of the Assembly. That additional year should (it was said) provide sufficient time for thorough study by all Governments. The co-sponsors therefore proposed that the General Assembly should decide at its ninth session to place on the provisional agenda of its tenth session the question of substantive consideration of the draft articles on the continental shelf.

6. At its 478th plenary meeting held on 25 September 1954, the General Assembly decided to include the item in the agenda of its ninth session, and referred it to the Sixth Committee which considered it at its 430th to 435th meetings, held from the 29 November to 3 December 1954.

7. During the discussion, the Sixth Committee considered successively the following draft resolutions and amendments:

- (a) A draft resolution submitted jointly by Belgium, China, Netherlands, New Zealand, United Kingdom of Great Britain and Northern Ireland and United States of America (A/C.6/L.339);

(b) Amendments to the joint draft resolution, which were proposed jointly by Chile, Colombia, Costa Rica, Ecuador, El Salvador, Mexico, Peru and Uruguay (A/C.6/L.341);

(c) A draft resolution submitted by Iceland (A/C.6/L.342).

8. The text of the amendments was subsequently superseded by another text (A/C.6/L.341/Rev.1), proposed by the same countries together with Argentina and Iceland; the last-named withdrew its draft resolution (A/C.6/L.342).

9. The preamble to the joint draft resolution (A/C.6/L.339) consisted of three paragraphs setting forth, respectively, the following considerations: (1) that the International Law Commission in its report on the work of its fifth session submitted for the consideration of the General Assembly draft articles on the continental shelf; (2) that consideration by the Assembly of problems such as that of the continental shelf relating to the régime of the high seas and the régime of territorial waters should be undertaken without undue delay; (3) that any decisions taken with respect to the draft articles on the continental shelf would be without prejudice to the question of the breadth of the territorial sea. The object of the two operative paragraphs was that the General Assembly should (1) decide to include the item in the provisional agenda for the tenth regular session in 1955; and (2) request the International Law Commission to continue to give special attention to its study of the régime of the high seas and the régime of the territorial waters with a view to completing its work on these topics as soon as possible.

10. The object of the revised amendments proposed jointly by Argentina, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Iceland, Mexico, Peru and Uruguay (A/C.6/L.341/Rev.1) was that the joint draft resolution should be amended in the following respect: (1) the second paragraph of the preamble was to be amended to express the General Assembly's belief that consideration by it of the régime of the high seas, the régime of territorial waters and all related problems should be undertaken without undue delay; (2) the third paragraph of the preamble was to be replaced by a passage recalling that in resolution 798 (VIII) the General Assembly, having regard to the fact that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters, were closely linked together juridically as well as physically, had decided not to deal with any aspect of those topics until all the problems involved had been studied by the International Law Commission and reported upon by

it to the General Assembly; and (3) the order of operative paragraphs 1 and 2 should be reversed and both should be amended so as to provide that:

- (i) the General Assembly requests the International Law Commission to devote the necessary time to the study of the régime of the high seas, the régime of territorial waters and all related problems in order to complete its work on these topics and submit its final report in time for the General Assembly to consider them as a whole, in accordance with resolution 798 (VIII), at its eleventh session; and
- (ii) the General Assembly decides to include the final report of the International Law Commission on these topics in the provisional agenda for the eleventh session of the Assembly.

11. The sponsors of the joint draft resolution (A/C.6/L.339) accepted the revised amendments (A/C.6/L.341/Rev.1), on condition that the Sixth Committee agreed that its report on the item to the General Assembly would include the statement which is reproduced in paragraph 16 below.

12. During the debate, a number of delegations maintained that the General Assembly should consider the substance of the draft articles on the continental shelf at its tenth session. They argued that the General Assembly could study the question of the continental shelf without waiting until the International Law Commission had dealt with the various aspects of the régime of the high seas and the régime of the territorial sea. The International Law Commission itself had considered the question separately, had prepared draft articles relating to the continental shelf and had recommended that the Assembly should adopt those draft articles. The opinion of this Commission, which was composed of experts, should be taken into account. Although some delegations felt that, because the various aspects of the question were interrelated, it would be impossible to deal with any one aspect without prejudging action with respect to the others, this difficulty could be overcome by an express proviso to the effect that any decision taken with respect to the problem of the continental shelf would be without prejudice to the other related problems. Moreover, by requesting the International Law Commission to complete its work on these topics as soon as possible, the General Assembly would indicate its continuing willingness to deal with them.

13. In the opinion of these delegations, so long as the question of the continental shelf remained unresolved it would be a source of possible disputes between States. Hence (they said) it was desirable that the General Assembly should examine the draft articles as soon as possible with a view to settling the fundamental principles of law which applied to the continental shelf.

14. Other delegations took the view that the question of the continental shelf could not be settled independently of the questions connected with the régime of the high seas and the régime of the territorial sea. It would be most difficult, if not impossible, to solve this question without prejudging or compromising the solution of the other, closely connected, questions. This difficulty would remain (they said) even if it were provided expressly that any decision taken with regard to the draft articles on the continental shelf would be without prejudice to the other related problems. Moreover, to study the question of the continental shelf at the tenth session of the General Assembly, in other words, before the International Law Commission completed its work on all the other related questions, would mean to give up, without good cause, the principle (laid down in General Assembly resolution 798 (VIII)) that the subject should be dealt with as a whole.

15. At its 435th meeting, held on 3 December, the Committee voted by division on the draft resolution proposed jointly by Belgium, China, the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland and the United States of America (A/C.6/L.339), as amended by the revised amendments proposed by the ten Powers (A/C.6/L.341/Rev.1). The result of the vote was as follows:

- (a) The first paragraph of the preamble (A/C.6/L.339) was adopted by 47 votes to none, with 6 abstentions.
- (b) The second amended paragraph of the preamble (A/C.6/L.341/Rev.1) was adopted by 43 votes to none, with 10 abstentions.
- (c) The third amended paragraph of the preamble (A/C.6/L.341/Rev.1) was adopted by 41 votes to none, with 9 abstentions.

(d) The amended operative paragraph 1 (A/C.6/L.341/Rev.1) was adopted by 44 votes to none, with 9 abstentions.

(e) The amended operative paragraph 2 (A/C.6/L.341/Rev.1) was adopted by 44 votes to none, with 8 abstentions.

(f) The joint draft resolution as a whole, as amended, was adopted by 44 votes to none, with 9 abstentions.

16. At the same meeting, the Committee decided, without a vote, that the following statement should be inserted in its report to the General Assembly: "It was agreed that the first operative paragraph should not be interpreted in the sense of prejudicing the decisions that might be adopted by the Assembly at its eleventh session regarding the procedure to be followed in the discussion of the item, once the International Law Commission had submitted the final report referred to in the resolution".

17. It was also understood that the programme of work of the International Law Commission, as outlined in the draft resolution adopted, would make it possible for that Commission to prepare drafts on the subject and to submit them to Governments for comments in 1955, so that it could take these comments into account when preparing the final drafts in 1956.

18. Accordingly, the Sixth Committee recommends that the General Assembly should adopt the following draft resolution:

#### DRAFT ARTICLES ON THE CONTINENTAL SHELF

The General Assembly,

Considering that the International Law Commission in its report on the work of the fifth session<sup>1/</sup> submitted for the consideration of the General Assembly draft articles on the continental shelf,

Believing that consideration by the General Assembly of the régime of the high seas, the régime of territorial waters and all related problems should be undertaken without undue delay,

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<sup>1/</sup> See Official Records of the General Assembly, Eighth Session, Supplement No. 9, document A/2456, chapter III.

Recalling that in resolution 798 (VIII) the General Assembly, having regard to the fact that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters were closely linked together juridically as well as physically, decided not to deal with any aspect of those matters until all the problems involved had been studied by the International Law Commission and reported upon by it to the General Assembly.

1. Requests the International Law Commission to devote the necessary time to the study of the régime of the high seas, the régime of territorial waters and all related problems in order to complete its work on these topics and submit its final report in time for the General Assembly to consider them as a whole, in accordance with resolution 798 (VIII), at its eleventh session;

2. Decides to include the final report of the International Law Commission on these topics in the provisional agenda for the eleventh session of the General Assembly.

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