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THE LAW OF THE SEA:

SOME RECENT DEVELOPMENTS

(With Particular Reference to the United Nations

Conference of 1958)

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S.

Government, the U.S. Department of the Navy or the Naval War College.

APPENDIX F

RESOLUTIONS ADOPTED BY CONFERENCE ⁸

(1) NUCLEAR TESTS ON THE HIGH SEAS

Resolution adopted on 27 April 1958, on the report of the Second Committee, in connexion with article 2 of the Convention on the High Seas

The United Nations Conference on the Law of the Sea,

Recalling that the Conference has been convened by the General Assembly of the United Nations in accordance with resolution 1105 (XI) of 21 February 1957,

Recognizing that there is a serious and genuine apprehension on the part of many States that nuclear explosions constitute an infringement of the freedom of the seas,

Recognizing that the question of nuclear tests and production is still under review by the General Assembly under various resolutions on the subject and by the Disarmament Commission, and is at present under constant review and discussion by the Governments concerned,

Decides to refer this matter to the General Assembly for appropriate action.

(2) POLLUTION OF THE HIGH SEAS BY RADIOACTIVE MATERIALS

Resolution adopted on 27 April 1958, on the report of the Second Committee, relating to article 25 of the Convention on the High Seas

The United Nations Conference on the Law of the Sea,

Recognizing the need for international action in the field of disposal of radioactive wastes in the sea,

Taking into account action which has been proposed by various national and international bodies and studies which have been published on the subject,

Noting that the International Commission for Radiological Protection has made recommendations regarding the maximum permissible concentration of radioisotopes in the human body and the maximum permissible concentration in air and water,

Recommends that the International Atomic Energy Agency, in consultation with existing groups and established organs having ac-

⁸ U.N. doc. A/CONF. 13/L. 56.

knowledgeable competence in the field of radiological protection, should pursue whatever studies and take whatever action is necessary to assist States in controlling the discharge or release of radioactive materials to the sea, in promulgating standards, and in drawing up internationally acceptable regulations to prevent pollution of the sea by radioactive materials in amounts which would adversely affect man and his marine resources.

(3) INTERNATIONAL FISHERY CONSERVATION CONVENTIONS

Resolution adopted on 25 April 1958, on the report of the Third Committee

The United Nations Conference on the Law of the Sea,

Taking note of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as expressed in paragraph 43 of its report, as to the efficacy of international conservation organizations in furthering the conservation of the living resources of the sea,

Believing that such organizations are valuable instruments for the co-ordination of scientific effort upon the problem of fisheries and for the making of agreements upon conservation measures,

Recommends:

1. That States concerned should co-operate in establishing the necessary conservation régime through the medium of such organizations covering particular areas of the high seas or species of living marine resources and conforming in other respects with the recommendations contained in the report of the Rome Conference;

2. That these organizations should be used so far as practicable for the conduct of the negotiations between States envisaged under articles 4, 5, 6 and 7, for the resolution of any disagreements and for the implementation of agreed measures of conservation.

(4) CO-OPERATION IN CONSERVATION MEASURES

Resolution adopted on 25 April 1958, on the report of the Third Committee

The United Nations Conference on the Law of the Sea,

Taking note of the opinion of the International Technical Conference on the Conservation of the Living Resources of the Sea, held in Rome in April/May 1955, as reported in paragraphs 43(a), 54 and others of its report, that any effective conservation management system must have the participation of all States engaged in substantial exploitation of the stock or stocks of living marine organisms which are the object of the conservation management system or having a special interest in the conservation of that stock or stocks.

Recommends to the coastal States that, in the cases where a stock or stocks of fish or other living marine resources inhabit both the fishing areas under their jurisdiction and areas of the adjacent high seas, they should co-operate with such international conservation organizations as may be responsible for the development and application of conservation measures in the adjacent high seas, in the adoption and enforcement, as far as practicable, of the necessary conservation measures on fishing areas under their jurisdiction.

(5) HUMANE KILLING OF MARINE LIFE

Resolution adopted on 25 April 1958, on the report of the Third Committee

The United Nations Conference on the Law of the Sea,

Requests States to prescribe, by all means available to them, those methods for the capture and killing of marine life, especially of whales and seals, which will spare them suffering to the greatest extent possible.

(6) SPECIAL SITUATIONS RELATING TO COASTAL FISHERIES

Resolution adopted on 26 April 1958, on the report of the Third Committee

The United Nations Conference on the Law of the Sea,

Having considered the situation of countries or territories whose people are overwhelmingly dependent upon coastal fisheries for their livelihood or economic development,

Having considered also the situation of countries whose coastal population depends primarily on coastal fisheries for the animal protein of its diet and whose fishing methods are mainly limited to local fishing from small boats,

Recognizing that such situations call for exceptional measures benefiting particular needs,

Considering that, because of the limited scope and exceptional nature of those situations, any measures adopted to meet them would be complementary to provisions incorporated in a universal system of international law,

Believing that States should collaborate to secure just treatment of such situations by regional agreements or by other means of international co-operation,

Recommends:

1. That where, for the purpose of conservation, it becomes necessary to limit the total catch of a stock or stocks of fish in an area of the high seas adjacent to the territorial sea of a coastal State, any other States fishing in that area should collaborate with the coastal State

to secure just treatment of such situation, by establishing agreed measures which shall recognize any preferential requirements of the coastal State resulting from its dependence upon the fishery concerned while having regard to the interests of the other States;

2. That appropriate conciliation and arbitral procedures shall be established for the settlement of any disagreement.

(7) RÉGIME OF HISTORIC WATERS

Resolution adopted on 27 April 1958, on the report of the First Committee

The United Nations Conference on the Law of the Sea,

Considering that the International Law Commission has not provided for the régime of historic waters, including historic bays,

Recognizing the importance of the juridical status of such areas,

Requests the General Assembly of the United Nations to arrange for the study of juridical régime of historic waters, including historic bays, and for the communication of the results of such study to all States Members of the United Nations.

(8) CONVENING OF A SECOND UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

Resolution adopted by the Conference on 27 April 1958

The United Nations Conference on the Law of the Sea,

Considering that, on the basis of the report prepared by the International Law Commission, it has approved agreements and other instruments on the régime applicable to fishing and the conservation of the living resources of the high seas, the exploration and exploitation of the natural resources of the continental shelf and other matters pertaining to the general régime of the high seas and to the free access of land-locked States to the sea,

Considering that it has not been possible to reach agreement on the breadth of the territorial sea and some other matters which were raised in connexion with this problem,

Recognizing that, although agreements have been reached on the régime applicable to fishing and the conservation of the living resources of the high seas, it has not been possible, in those agreements, to settle certain aspects of a number of inherently complex questions,

Recognizing the desirability of making further efforts, at an appropriate time, to reach agreement on those questions relating to the international law of the sea which have been left unsettled,

Requests the General Assembly of the United Nations to study, at its thirteenth session (1958), the advisability of convening a second

international conference of plenipotentiaries for further consideration of the questions left unsettled by the present Conference.

(9) **TRIBUTE TO THE INTERNATIONAL LAW COMMISSION**

Resolution adopted by the Conference on 27 April 1958

The United Nations Conference on the Law of the Sea, on the conclusion of its proceedings,

Resolves:

To pay a tribute of gratitude, respect and admiration to the International Law Commission for its excellent work in the matter of the codification and development of international law, in the form of various drafts and commentaries of great juridical value.