



**ORGANIZATION OF
AFRICAN UNITY**

• Secretariat
P O Box 3243

مطمة الوحدة الافريقية
السكترية
م ب ٣٢٤٣

**ORGANISATION DE L'UNITE
AFRICAIN**

Secretariat
B P 3243

CM/492

اديس ابابا •• Addis Ababa

COUNCIL OF MINISTERS

Twentieth Ordinary Session

Addis Ababa 5-10 February 1973.

REPORT ON THE QUESTION OF TERRITORIAL WATERS

ADOPTION OF RESOLUTION ESCHC/Res.23(II).



CM0492

MICROFICHE

REPORT ON THE QUESTION OF TERRITORIAL WATERSADOPTION OF RESOLUTION ESCHC/Res.23(II).

1. The seas and oceans around our continent abound in fish of all kinds, and yet modern commercial fishing as an established economic activity, involves only a few African States, whilst foreign companies with their advanced technology are plundering along our shores. The recent episode of the "gun-boat" incident between a small country which was asserting its right over the waters surrounding its shores to a maximum of fifty nautical miles and a big power bent on plundering the resources within these waters is fresh in people's minds. Recent scientific methods of exploring and exploiting off-shore oil and petroleum gas, has led to the working of fields of these within the territorial waters of some African countries. These resources require national legal protection. There are other marine natural resources which require similar national protection recognized by international law. It was in anticipation of these considerations and incidents such as the one quoted above and also due to the fact that there has not been an agreed extent of territorial waters following the failure of the efforts in 1958 and 1960 by the United Nations Conference on the "Law of the Sea" to determine internationally acceptable limits of territorial waters, that the Scientific Council for Africa (CSA) at its Third Session held in Ibadan from 1 - 4 November 1971, recommended that littoral states of Africa should, where possible, extend their territorial waters up to a maximum of 200 nautical miles. The recommendation was accepted by the Education, Scientific, Cultural and Health Commission (ESCHC) at its Second Ordinary Session, held in Cairo, Egypt, embodying it in resolution ESCHC/Res. 23 (II), (see Annex I attached).

2. The Council of Ministers at its 19th Ordinary Session held in Rabat from 5 - 12 June 1972 approved all the ESCHC Resolutions passed in Cairo except Resolution ESCHC/Res. 23 (II) on Territorial Waters which, it was directed, should be "referred to the next Ordinary Session of the Council of Ministers for consideration" (vide CM/Res. 284 (XIX))

It was felt, during those discussions, that the question of territorial waters had complex military, political, legal and economic problems and that the OAU Member States should be given more time to consider all these aspects before reconsidering the adoption of that resolution.

3. In 1967 following the general trends in the discussions at the UN Conference on the Law of the Sea held in 1960, the OAU advised coastal countries among its Member States, to extend their territorial waters up to 12 nautical miles, and also to establish a contiguous zone of 12 nautical miles. Since then, the position has become clearer vis-a-vis international law, and has also changed both in Africa, and elsewhere. In Africa, several countries have extended their territorial waters to beyond that 12 nautical mile-limit. For example Guinea and Sierra-Leone each has 200, Nigeria, 30, Cameroun, 18, about ten Member States each has 12 and Ivory Coast, 5 nautical miles to their national territorial waters. Elsewhere in the world, and following the adoption of the Montevideo Declaration (a copy is attached in Annex II) the Latin American countries have accepted to extend - and some of them have already extended their territorial waters up to 200 nautical miles. Iceland has extended her territorial waters to 50 nautical miles. It should be re-emphasised that there is no agreed limit to territorial waters under the UN Law of the Sea, and that it would be advisable and important that the OAU Member States should have a common guide on the case. The efforts of the Secretariat towards convening a meeting of African experts to harmonize African views "on the Law of the Sea" have been outlined in another report being presented to the 20th Ordinary Session of the Council of Ministers. The resolution ESCHC/Res.23(II) a copy of which is attached is now presented for consideration, as demanded by operative paragraph I of resolution CM/Res. 284 (XIX). (see paragraphs 3 and 4 attached)

4. All, if not most, Africans desire to protect, preserve and develop oil, gas, fishes and other marine natural resources within their territorial waters for the exclusive use of the citizens of their countries. The proposed extension of territorial waters to 200 nautical miles would permit coastal African countries to cover as wide an area as would receive the active support of other developing countries in other continents. It also appears necessary for the African countries to support the stand taken by the Latin American countries, vide the Montevideo Declaration, enabling them to extend their territorial waters up to the 200 nautical-mile-limit. The argument that is often given that most African countries have not got strong navies to enforce such a limit of territorial waters, is applicable to any limit at all. What is important appears to be that coastal countries should extend their territorial waters within the international Law (which at present has no agreed fixed limit), bearing in mind the need to provide adequately for their citizens by protecting marine natural resources for their exclusive use, and to ensure that in doing so, they stand solidly together with the countries of the third world. It is one of the functions of the OAU to co-ordinate common action by Member States on this case. Moral guilt will fall on anyone who trespasses on territorial waters legally delimited according to international law, and this can also be enforced through the International Court of Justice. Subsequently, when the respective navies have been built-up, they would be used to enforce the national territorial waters of the countries concerned.

5. The Council of Ministers is therefore invited:-

- (i) to note that resolution ESCHC/Res.23(II) on "Territorial Waters" is being re-presented for consideration by the Council after the elapse of the period demanded by the Council's own resolution CM/Res.284 (XIX), and
- (ii) to adopt resolution ESCHC/Res.23 (II), whose implementation is long overdue in the interest of protecting adjacent marine natural resources for use by the citizens of the countries concerned.

December 1972,

Addis Ababa.

RESOLUTION ON TERRITORIAL WATERS (ESCHC/Res.23 (II))

The Educational, Scientific, Cultural and Health Commission meeting in its Second Ordinary Session from 29 November 1971 to 4 December 1971 in Cairo, Egypt,

Recalling resolution No. CM/Res.238 (XVI) of the OAU which requested the Scientific Council of Africa (CSA) to meet and "to undertake a study of all aspects of the problem of the exploration, exploitation and utilization of the natural resources of the sea and its sub-soil;

Noting that the CSA met in Ibadan, Nigeria from among other things proposal on the extent of territorial waters - vide recommendations XVI of document ESCHC/63;

Aware that at present there is no accepted international convention governing the limit of territorial waters;

1. Endorses the recommendation of the CSA that the littoral states of Africa should, where possible, extend their territorial waters up to a maximum limit of 200 nautical miles from the base line of the territorial sea which would thus come under their individual national sovereignty and jurisdiction. (This is to be followed by the internationally accepted contiguous zone of 12 nautical miles).
2. FURTHER endorses the CSA recommendation that where possible, this zone of twelve nautical miles from the baseline from which breadth of the territorial sea is measured be created into restricted national fishery zone and, that the 212 nautical miles zone thus established should be declared a non-pollution zone.
3. INVITES Member States to take the necessary legislative and other relevant measures to establish these zones once this recommendation has been adopted by the Assembly of Heads of State and Government.

MONTVIDEO DECLARATION ON THE LAW OF THE SEAAdopted May 8, 1970By Latin America.

The States represented at the Montevideo Meeting on the Law of the Sea, (U.N. Press Release, LV/185, June 9, 1970)

Recognizing that there exists a geographic, economic and social link between the sea, the land, and its inhabitants, Man, which confers on the coastal peoples legitimate priority in the utilization of the natural resources provided by their marine environment,

Recognizing likewise that any norms governing the limits of national sovereignty and jurisdiction over the sea, its soil and its subsoil, and the conditions for the exploitation of their resources, must take account of the geographical realities of the coastal States and the special needs and economic and social responsibilities of developing States,

Considering: that scientific and technological advances in the exploitation of the natural wealth of the sea have brought in their train the danger of plundering its living resources through injudicious or abusive harvesting practices or through the disturbance of ecological conditions, a fact which supports the right of coastal States to take the necessary measures to protect those resources within areas of jurisdiction more extensive than has traditionally been the case and to regulate within such areas any fishing or aquatic hunting, carried out by vessels operating under the national or a foreign flag, subject to national legislation and to agreements concluded with other States,

that a number of declarations, resolutions and treaties, many of them inter-American, and multilateral declarations and agreements concluded between Latin American States, embody legal principles which justify the right of States to extend their sovereignty and jurisdiction to the extent necessary to conserve, development and exploit the natural resources of the maritime area adjacent to their coasts, its soil and its subsoil,

that, in accordance with these legal principles the signatory States have, by reason of conditions peculiar to them, extended their sovereignty or exclusive rights of jurisdiction over the maritime area adjacent to their coasts, its soil and its subsoil to a distance of 200 nautical miles from its baseline of the territorial sea,

that the implementation of measures to conserve the resources of the sea, its soil and its subsoil by coastal States in the areas of maritime jurisdiction adjacent to their coasts ultimately benefits mankind, which possesses in the oceans a major source of means for its subsistence and development,

that the sovereign right of States to their natural resources has been recognized and reaffirmed by many resolutions of the General Assembly and other United Nations bodies,

that it is advisable to embody in a joint declaration the principles emanating from the recent movement towards the progressive development of international law, which is receiving ever-increasing support from the international community,

declare the following to be Basic Principles of the Law of the Sea;

1. the right of coastal States to avail themselves of the natural resources of the sea adjacent to their coasts and of the soil and subsoil thereof in order to promote the maximum development of their economies and to raise the levels of living of their peoples;
2. the right to establish the limits of their maritime sovereignty and jurisdiction in accordance with their geographical and geological characteristics and with the factors governing the existence of marine resources and the need for their rational utilization;
3. the right to explore, to conserve the living resources of the sea adjacent to their territories, and to establish regulations for fishing and aquatic hunting;
4. the right to explore, conserve and exploit the natural resources of their continental shelves to where the depth of the superjacent waters admits to the exploitation of such resources;
5. the right to explore, conserve and exploit the natural resources of the soil and subsoil of the sea-bed and ocean floor up to the limit within which the State exercises its jurisdiction over the sea;
6. the right to adopt, for the aforementioned purposes, regulatory measures applicable in areas under their maritime sovereignty and jurisdiction, without prejudice to freedom of navigation by ships and overflying by aircraft of any flag.

Furthermore, the signatory States, encouraged by the results of this Meeting, express their intention to coordinate their future action with a view of defending effectively the principles embodied in this Declaration.

This Declaration shall be known as the "Montevideo Declaration on the Law of the Sea".



1973-02

Report on the question of Territorial Waters Adoption of Resolution ESCHC / Res.23 (II)

Organization of African Unity

Organization of African Unity

<https://archives.au.int/handle/123456789/7778>

Downloaded from African Union Common Repository