

Thank you Mr. Chairman,

I have only a few relatively brief observations to offer on this extremely important topic. My delegation did make its views known in a general way in our statement in plenary in introducing the nine-power draft which included amongst its provisions certain draft articles on archipelagic states and the archipelagic concept as such. I would only like to add to those comments, mainly in order to further clarify our position on some questions on which we have not touched on in our earlier comments.

The basic point to which we think we ought to direct our attention is the need to define the whole archipelagic concept. We have heard some references to some extremely interesting proposals which have been confined essentially to the concept of the archipelagic state. In our own view that is the central issue arising out of this question, but it would be illusory for us to direct our attention to the issue of the archipelagic state if by so doing we did not also bear in mind that there is such a phenomenon as an archipelago in law, in fact, and in geography which cannot be ignored when we develop the rule of law on this issue. This factor is reflected in the proposal which I referred to a little earlier which was introduced in plenary. It follows also that not every group of islands constitutes an archipelago. The question arises, for example, whether two islands can together constitute an archipelago or, if not, how many islands are needed. Other questions arise raised by almost every proposal we have seen since we began

our deliberations on these questions--issues such as the length of baselines and number of baselines, the ratio of land to water, the question of the nature of the link between the land and the water. I could give one example. Ice is quite a concrete kind of link between land and water. Other questions arise, such as the general direction of the coastline, economic importance etc., but my point is simply that, obviously, we have to come up with a clear cut definition of the archipelagic concept, and in so doing we must not do violence to that body of already existing law which has not been called into question either in this conference or in the seabed committee. I am referring to the agreed rules of law relating to fringes of islands, law the owes its origin to Norwegian state practice, unilateral action if you wish to call it, but action justified and accepted by decision of the International Court in the Anglo-Norwegian fisheries case and based on a concept reflected in Article 4 of the Territorial Sea Convention, with certain minor alterations. We are talking about a problem that must be dealt with with some precision. Otherwise we run the danger of calling into question existing concepts which are not only soundly based and widely accepted but very necessary in any future law of the sea. So how do we approach this problem?

Our own view is that we must guard against the danger of using various criteria such as length of baselines or land-water ratios as a means of excluding certain archipelagoes. Surely there ought to be a way of bringing precision to this branch of the law without these various criteria being utilized as a means of ensuring that some such situations are taken care of while others are by definition excluded. Indeed I would go so far as to say that some of the very factors which have been treated as absolutely central, such as the ^{length} of baselines, for example, may seem much less important at a later stage of our deliberations, especially at that point when we have reached some kind of accommodation on what is, in our view, the overriding issue, namely the problem of passage through international straits and archipelagic waters.

I don't wish to reiterate what I said earlier on the subject of international straits but I would remind the committee, Mr. Chairman, that I did stress that while there are geographical aspects which must be taken into account, there are also other important aspects which must be reflected in the law we develop, particularly the concept, for example, that a strait, in order to be international must have been subjected to traditional usage as an international strait. What I am suggesting is that if we can resolve the very delicate and difficult problem, of rights of passage through archipelagoes, such questions as land to water

ratio and length of baselines and number of baselines and the precise manner of delineating the width of a sealanes may not be so controversial, although they will be relevant and must be taken into account in order to give precision to this concept which, while not new, is new in the sense that it is now being treated very widely as an emerging concept of international law as distinct from a mere claim put forth by some states.

It follows from what I have said that we are not going to solve all problems of all islands by devising a definition of archipelagoes, be it confined to archipelagic states or archipelagoes as such, which would include both archipelagic states and states with offlying archipelagoes, as was reflected in the proposal which Canada co-sponsored with eight other countries. I think also that it would not behoove us to settle this problem of archipelagoes if we didn't take account also of the many problems around the world concerning islands which may not fall neatly into any definition of archipelagoes. This is simply another fact of life. As sound lawyers, as good diplomats concerned with devising a comprehensive approach to this problem based essentially on a functional concept, and, I would hope on an equitable approach, we must take into account those very special problems of islands which we find in many parts of the world. To

sum up this part of my intervention I would say that it is essential that we do come up with a precise definition of archipelagoes, but in so doing we should be concerned not so much with the kind of criteria that might exclude this or that group of islands, but rather with bringing certainty to the law.

In spite of the fact that the concept of fringes of islands is well established in the law, I don't think anyone would deny that we might bring greater clarification to the whole problem of islands, archipelagoes and fringes of islands by the manner in which we treat this subject. It follows from the foregoing that it is essential that we do not proceed in isolation from those other interrelated questions such as the regime of the territorial sea, and passage through international straits. In other words, we are concerned here not only with the definition of archipelagoes and the archipelagic concept and the criteria to be applied, but the essential issue of the status of the waters. To what extent will the status of these waters be equivalent to the status of the economic zone, and to what extent will they differ? I think we must direct our attention to this question in due course, and again define with some precision what the similarities are and what the differences are.

It is quite clear from some of the proposals put forward that the basic approach to the archipelagic question is one founded upon the principle of sovereignty, whereas that underlying the economic zone is, on the contrary, that of an assertion of jurisdiction, or a number of types of jurisdiction, together falling short of sovereignty.

It is our contention, therefore, that in approaching this question we should proceed with some caution, with some patience, and with real understanding of the complexity of the issues. It is quite clearly one of the most difficult problems facing us. In approaching this question we must bear in mind, as always, the competing uses of the ocean, and, ultimately the competing rights and duties of states. The problem is to protect the rights of the coastal states concerned, clarify the legal concept of archipelagic waters, and establish it firmly in international law, while at the same time ensuring the protection of the interests of the international community as a whole, which includes of course the need to ensure that the interests of all of us in freedom of navigation is also safeguarded.

In conclusion, I would only stress which may already be obvious, namely that along with many other countries, Canada has a particular interest in this question,

and will, of course, cooperate with all of the delegations concerned in attempting to resolve it in a manner which ensures precision, which guards against creating some kind of vague concept that later is impossible to implement or regulate, and that we add to the body of law already existing by an approach based on the rule of law itself. Thank you very much Mr. Chairman.