

FOR INFORMATION PURPOSES

Compliments of M. MONCEF KEDADI
Chairman of the Group of 77

To Heads of Delegation
to the Third United Nations Conference
on the Law of the Sea

GE.75-65055

Geneva, 1 May 1975

Dear Ambassador Galindo Pohl,

I have the honour to transmit to you a Working Paper dated 30 April 1975 containing draft articles on the Exclusive Economic Zone. The Paper was prepared on the basis of discussions in the Group of 77 over the past several weeks. As the discussions have not been concluded the Paper does not represent a consensus of the Group. Nevertheless, it does reflect a cross section of positions held by States members of the Group of 77 and as such it may prove to be of some assistance to you in preparing a negotiating text on the items dealt with by your Committee.

Sincerely yours,

(Signed): M. MONCEF KEDADI

H.E. Mr. Reynaldo Galindo Pohl
Chairman of the Second Committee
of the Third United Nations
Conference on the Law of the Sea

WORKING PAPER ON THE EXCLUSIVE ECONOMIC ZONE

[The following text is submitted by the Chairman of the Group of 77 to the Chairman of Committee II on behalf of the Group of 77, for his information. Discussions are continuing on several aspects contained in the text and consequently the document cannot be considered as representing the final position of the Group or of any State member of the Group of 77.]

Article 1

Coastal States have the right to establish beyond and adjacent to their territorial sea an Exclusive Economic Zone which shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.*

Article 2

Coastal States exercise in and throughout the Exclusive Economic Zone:

- (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the water column, the sea-bed and subsoil.
- (b) sovereign rights with regard to other activities for the economic exploration and exploitation of the Exclusive Economic Zone, such as the production of energy from the water, currents and winds, but without prejudice to the provisions of paragraph 7 below.
- (c) (I) Jurisdiction with respect to regulation, control and preservation of the marine environment including pollution control and abatement.
(II) Exclusive jurisdiction with respect to authorization, regulation and control of scientific research.
(III) Exclusive jurisdiction with respect to the establishment and use of artificial islands, installations structures and other devices, including customs, fiscal, health, public order and immigration regulation pertaining thereto.
- (d) other rights and duties compatible with the provisions of this convention.

*/ This article is without prejudice to article... pertaining to the Continental Shelf.

Coastal States have the power to make and enforce regulations relating to the above rights and jurisdiction.

Article 3

- (a) The rights to resources recognized or established by the present Convention of a territory whose people have not yet attained either full independence or some other self-governing status recognized by the United Nations or a territory under foreign occupation or colonial domination or a United Nations Trust Territory or a territory administered by the United Nations shall be vested in the inhabitants of that territory, to be exercised by them for their own benefit and in accordance with their own needs and requirements.

The above Provision shall apply in every way to the Palestinian Liberation movement and the liberation movements recognized by the Organization of African Unity, who are engaged in armed struggle to recover their territory.

- (b) In no case may the rights referred to in paragraph 1 be exercised, profited or benefited from, directly or indirectly, or in any way infringed by a metropolitan or foreign power administering or occupying such territory or purporting to administer or occupy such territory.

Where a dispute exists with regard to a territory under foreign occupation or colonial domination such rights will not be exercised until and when the dispute with the colonial dominating power been definitely settled in accordance with the pertinent resolutions of the General Assembly of the United Nations which contemplate safeguarding of territorial integrity, the promotion of decolonization and the recovery of territory.

- (c) References in this article to a territory include continental and insular territories.

Article 4

In exercising their rights and their jurisdiction under this Convention and in making and enforcing regulations pertaining thereto coastal States shall have due regard to the rights of other States in the Exclusive Economic Zone as specified in this Convention.

Article 5

- (i) a. Land-locked States and developing geographically disadvantaged States have the right to exploit the living resources of the Exclusive Economic Zones of neighbouring coastal States in accordance with this article and shall bear the corresponding obligations. Developed land-locked and developed geographically disadvantaged States shall however only be entitled to exercise their rights within the Exclusive Economic Zones of neighbouring developed coastal States.

- b. In accordance with the provisions of paragraph (ii) b. below, nationals of neighbouring land-locked States shall enjoy equal rights as nationals of coastal States, or a right that will ensure a fair and equitable share of the living resources of the Exclusive Economic Zones, and bear similar but non-discriminatory obligations as nationals of the coastal State.
 - c. In accordance with the provisions of paragraph (ii) b. below, nationals of neighbouring developing geographically disadvantaged States shall enjoy a right that will ensure a fair and equitable share of the living resources of the Exclusive Economic Zone and bear similar but non-discriminatory obligations as nationals of coastal States.
- (ii) a. The above-mentioned rights of nationals of land-locked or geographically disadvantaged States cannot be transferred to third parties by lease or licence, by establishing joint collaboration ventures, or by any other arrangements. The foregoing shall not however preclude land-locked States and developing geographically disadvantaged States from obtaining technical and financial assistance from third States or competent international organizations.
- b. Bilateral, subregional or regional arrangements shall be worked out for the purpose of ensuring the enjoyment of the rights and carrying out the obligations in paragraph (i) of this article including where appropriate, specifying the areas in the Exclusive Economic Zone where such rights would be exercised.*

Article 6

- (a) For the purpose of these articles "developing geographically disadvantaged States" means developing coastal States which:
- (i) for geographical reasons cannot claim an exclusive economic zone, or
 - (ii) for biological or ecological reasons, exclusively natural in character, derive no substantial economic advantage from exploiting the living resources of their Exclusive Economic Zones and whose rights of access to living resources are adversely affected by the establishment of Exclusive Economic Zones by other States.

*/ Nothing in this article shall preclude States in a region or subregion from entering into arrangements for regional or subregional exclusive economic zones for exploiting the resources therein.

(b) For the purpose of Article 5, a land-locked or geographically disadvantaged State is "neighbouring" a coastal State if:

- (i) it shares a common border with the coastal State, or
- (ii) it is adjacent to the coastal State, or
- (iii) both it and the coastal State lie within or border a closed or semi-enclosed sea, or
- (iv) it is situated within reasonable proximity of the coastal State, taking into account all the relevant geographical circumstances pertaining to the region.

Article 7

(I) All States, whether coastal or not shall enjoy in the Exclusive Economic Zone the right of freedom of navigation and overflight the right to lay submarine cables and pipelines and other legitimate uses of the sea related to navigation and communication, subject to the provisions of this convention.

(II) In exercising their rights and performing their duties within the Exclusive Economic Zone under this convention, States shall have due regard to the rights and duties of the coastal State and in particular to its security interests in the Exclusive Economic Zone.

Article 8

8. In cases where the convention does not attribute within the Exclusive Economic Zone, rights or jurisdiction to the coastal State or to other States and a disagreement arises in connexion with the interests of the coastal State and any other State or States, such disagreement should be resolved taking into account equity, the nature of the Exclusive Economic Zone which is not part of the High Seas, and in the light of all relevant circumstances, including the respective importance to the parties of the interests involved as well as to the international community as a whole.

24 April 1975

For information purposes

Compliments of Mr. Jens Evensen
Head of the Delegation of Norway

To Heads of Delegations
to the Third United Nations Conference
on the Law of the Sea

GE.75-64877

Geneva, 24 April 1975

Dear Ambassador Galindo Pohl,

I hereby have the pleasure to transmit to you the Sixth Revision of a paper containing draft articles on the Economic Zone. This paper has been prepared on the basis of discussions which have taken place over an extended period of time in an informal group composed of participants from all geographical regions and groups representing the main trends and tendencies of opinion in regard to the future law of the sea. In the later stages of these discussions, forty to fifty representatives have taken part in the deliberations of the group, in a personal capacity.

The enclosed paper has been drawn up on my responsibility as Chairman of that informal group, and in my personal capacity. It is, to the best of my ability, based on the discussions which have taken place in the group. Although six revisions of the paper have taken place, it is not as yet a negotiated text, and several participants have expressed reservations with respect to formulations contained therein.

I venture to submit this paper after discussions in the group. It was generally felt that it might be useful to channel the paper to you in this manner. I should emphasize, in this connexion, that the draft articles are part of a package of closely inter-related subjects and issues. These various subjects and issues must necessarily be considered as a whole. Consequently, these draft articles on the Economic Zone will be subject to and contingent upon satisfactory solutions on other subjects and issues not dealt with in the paper.

I hope that the enclosed paper may prove to be of some assistance to you in your difficult task of preparing a negotiating text on the items dealt with by your Committee.

Sincerely yours,

(Signed) Jens Evensen

H.E. Mr. Reynaldo Galindo Pohl
Chairman of the Second Committee
of the Third United Nations
Conference on the Law of the Sea

THE ECONOMIC ZONE

CONTENTS

General provisions

Article 1	Coastal States
Article 2	Extension
Article 3	Third States
Article 4	Installations etc.

Living resources

Article 5	Conservation
Article 6	Utilization
Article 7	Co-operation
Article 8	Neighbouring States
Article 9	Geographically disadvantaged States
Article 10	Land-locked States
Article 11	Transfer of rights
Article 12	Highly migratory species
Article 13	Anadromous species
Article 14	Catadromous species
Article 15	Enforcement

THE ECONOMIC ZONE

General provisions

Article 1

1. The coastal State has in an area beyond and adjacent to its territorial sea, known as the exclusive economic zone:

(a) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the seabed and subsoil and the superjacent waters;

(b) Jurisdiction with regard to other activities for the economic exploration and exploitation of the zone, such as the production of energy from the water, currents and winds.

(c) Jurisdiction as provided for in this Convention with regard to:

- (i) the preservation of the marine environment,
- (ii) scientific research,
- (iii) the establishment and use of artificial islands, installations and similar structures, including customs, fiscal, health and immigration regulations pertaining thereto. *

(d) Other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article shall be without prejudice to the provisions of articles of this Convention. **

* The issue of contiguous zones for the purpose of customs, fiscal, health and immigration regulations would be dealt with elsewhere.

** The basic articles concerning the Continental Shelf.

Article 2

The economic zone shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Article 3

1. All States, whether coastal or land-locked, shall, subject to the relevant provisions of this Convention, enjoy the economic zone the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other internationally lawful uses of the sea related to navigation and communication and shall have other rights and duties provided for in this Convention. */
2. In cases where the Convention does not attribute rights or jurisdiction to the coastal State or to other States within the economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.
3. In exercising their rights and performing their duties under this Convention in the economic zone, States shall have due regard to the rights and duties of the coastal State and shall act in a manner compatible with the provisions of this Convention.

*/ The question of rights and duties of other States with respect to scientific research, laying and maintenance of submarine cables and pipelines and preservation of the marine environment will be dealt with in subsequent chapters.

Article 4

1. The coastal State shall have the exclusive right to construct and to authorize and regulate in the economic zone the construction, operation and use of:

- (a) artificial islands;
- (b) installations and structures used for purposes subject to its jurisdiction under art. 1;
- (c) installations and structures used for any economic purpose;
- (d) installations and structures which may interfere with the exercise of the rights of the coastal State in the economic zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures including jurisdiction with regard to customs, fiscal, health, safety and immigration regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused must be entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of the artificial islands, installations and structures and of navigation.

The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of meters around them measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the appropriate international organizations.

Ships of all nationalities must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installation, structures, and safety zones. Due notice shall be given of the extent of safety zones.

5. Artificial islands, installations and structures and safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

6. Artificial islands, installations and structures shall have no territorial sea of their own and their presence does not affect the delimitation of the territorial sea, or of other zones of coastal state jurisdiction or of the continental shelf.

LIVING RESOURCES

Article 5

1. In the exercise of its sovereign rights over the living resources in the economic zone the coastal State shall ensure by proper management and conservation measures that the maintenance of these resources is not endangered by over-exploitation. It shall co-operate as appropriate with regional and global organizations to this end. States participating in such organizations shall ensure to the extent possible that the organization concerned extends its co-operation to the coastal State in management and conservation matters.

2. In the exercise of its right to determine the allowable catch and establish other conservation measures for the living resources of the zone, the coastal State shall:

(a) adopt measures which are designed, on the best evidence available to the coastal State, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing countries, and taking into account fishing patterns, the interdependence of stocks as well as any generally recommended regional or global minimum standards.

(b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations or such associated or dependent species above levels at which their reproduction may become seriously threatened.

3. Available scientific information, catch and fishing efforts statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through regional and global organizations where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the economic zone.

Article 6

1. In the exercise of its sovereign rights to explore and exploit, conserve and manage the renewable resources in the economic zone as provided for in article 1 the coastal State shall promote the objective of optimum utilization of these resources without prejudice to the provisions of article 5.
2. The coastal State shall, through agreements or other arrangements and pursuant to the terms, conditions and regulations referred to in paragraph 4, give other States access to that part of the allowable catch which it does not have the capacity to harvest. The determination of the capacity of the coastal State in this respect shall rest with the coastal State.
3. In granting access to other States to its economic zone under this article, the coastal State shall take into account all relevant factors including, inter alia, the significance of the renewable resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 8, 9 and 10, the requirements of developing countries in the region or sub-region in harvesting part of the surplus and the need to minimize economic dislocation in States which have habitually fished in the zone or have made substantial efforts in research and identification of stocks.
4. Fishing by nationals of other States in the economic zone shall comply with the conservation measures and with the other terms and conditions established in the regulations of the coastal State. These regulations shall be consistent with the provisions of this Convention and may relate, inter alia, to the following:
 - (a) Licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration; developing States in particular may require adequate compensation in the field of fishing industry financing, equipment and fisheries technology;
 - (b) Determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or complexes of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;
 - (c) Regulating times and areas of fishing, the types, sizes and amount of gear, and the numbers, sizes and types of fishing vessels that may be used;
 - (d) Fixing the age and size of fish and other species that may be caught;
 - (e) Specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(f) Requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(g) The placing of observers, trainees or crew members on board such vessels by the coastal State;

(h) The landing of all or any part of the catch by such vessels in the ports of the coastal State;

(i) Terms and conditions relating to joint ventures or other co-operative arrangements;

(j) Requirements for training personnel and transfer of fisheries technology including enhancement of the coastal State's capability for undertaking fisheries research;

(k) Enforcement procedures.

not in the first text

Article 7

1. States shall co-operate, without prejudice to the provisions of articles 5 and 6, in seeking to elaborate standards and guidelines for conservation and rational utilization of the living resources in the economic zone, directly or within the framework of appropriate international fisheries organization, whether universal or regional.
2. Where the same stock or stocks of associated species occur within the economic zones of two or more coastal States, these States shall seek either directly or through appropriate regional or sub-regional organizations to agree upon the measures necessary to co-ordinate and ensure the conservation and equitable allocation of such stocks without prejudice to the other provisions of this Chapter.
3. Where the same stock or stocks of associated species occur both within the economic zone and in an area beyond and adjacent to the economic zone, the coastal State and States fishing for such stocks in the adjacent area shall seek either directly or through appropriate regional or sub-regional organizations to agree upon the measures necessary for the conservation of these stocks in the adjacent area.
4. Coastal States shall give timely notice of conservation and management regulations.

Article 8

1. Nothing in this Convention shall prejudice the right of the coastal State to permit nationals of other States to fish in its economic zone.
2. Neighbouring States may through agreements or other arrangements, and pursuant to coastal State regulations, allow each other's nationals to fish in their respective economic zones on the basis of equitable principles and taking into account all relevant economic and geographic circumstances.
3. The provisions of this Article are without prejudice to the provisions of Articles 5 and 6.

Article 9

1. Coastal States shall where appropriate negotiate with adjoining geographically disadvantaged States on a regional, sub-regional or bilateral level, concerning the question of access to the living resources of the economic zone or specified areas of the zone. Such negotiations shall be based on equitable principles and shall take into account all relevant economic and geographic circumstances including the level of economic development of the geographically disadvantaged State concerned, and the need to avoid effects which would be detrimental to the fishing communities of the coastal State or its fishing industry.
2. In cases where geographical peculiarities of a region or a sub-region make a developing State particularly dependent for the satisfaction of the nutritional needs of its population upon participation in the exploitation of the living resources of the economic zone of other States, the coastal States concerned shall negotiate with such State with a view to granting preferential rights as appropriate.

Article 10

1. Land-locked States shall have access to participate in the exploitation of the living resources of the economic zones or specified areas of the zone of adjoining coastal States on an equitable basis taking into account all relevant economic and geographic circumstances. Bilateral, sub-regional or regional agreements concerning the modalities of participation shall be negotiated.

2. The provision of paragraph 1 shall be without prejudice to arrangements agreed upon in regions where, due to particular circumstances, coastal States are prepared to grant to land-locked States of the region equal or preferential rights for the exploitation of the living resources in the economic zones.

Article 11

Rights to exploit the living resources granted under the provisions of articles 8, 9 and 10 cannot without the consent of the coastal State be transferred to third States or their nationals by lease or licence, by establishing joint collaboration ventures or by any other arrangement.

Article 12

(Highly migratory species)^{*/}

^{*/} Still under discussion.

Article 13

1. States have the primary interest in and responsibility for anadromous stocks originating in their rivers.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters within the outer limits of its economic zone and for fishing provided for in paragraph 3 (b). The State of origin may, after consultation with other States fishing these stocks, establish total allowable catches for stocks originating in its rivers.

3. (a) Fisheries for anadromous stocks shall be conducted only in the waters within the outer limits of economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin.

(b) The State of origin shall co-operate in minimizing economic dislocation in such other States fishing these resources, taking into account the normal catch and the mode of operations of such States, and all the areas in which such fishing has occurred.

(c) States referred to in sub-paragraph (b), participating by agreement with a State of origin in measures to renew an anadromous stock, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvest of stocks originating in its rivers.

(d) Enforcement of regulations regarding anadromous stocks beyond the economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters within the outer limit of the economic zone of a State other than the State of origin, such State shall co-operate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing these stocks, shall make arrangements for the implementation of the provisions of this Article, where appropriate, through regional organizations.

Article 14

1. A State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of these species and shall ensure the ingress and egress of migrating fish.
2. Harvesting of catadromous species shall be conducted only in waters in respect of which the State mentioned in paragraph 1 exercises sovereign rights over the living resources and, when conducted in the economic zone, shall be subject to the provisions of this Convention concerning fishing in the zone.
3. When catadromous fish migrate through the waters of another State or States, whether as juvenile or maturing fish, the management of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the State or States concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 15

The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with its laws and regulations in accordance with the provisions of this Convention.

Arrested vessels and their crew shall be promptly released upon the posting of reasonable bond or other security.

Coastal State penalties for violations of fisheries regulations in the economic zone may not include imprisonment, in the absence of agreement to the contrary by the States concerned, or any other form of corporal punishment.

In cases of arrest or detention of foreign vessels the coastal State shall promptly inform through diplomatic or similar channels the State of registry of the action taken and of any penalties subsequently imposed.