

M E M O R A N D U M

THE RIGHTS OF THE LLGDS IN THE ECONOMIC ZONE

Irrespective of some views, it has been well established law and practice that the fishing rights of all States, whether coastal or land-locked, began where the territorial sea of the coastal State ended; this legal situation has been confirmed by UNCLOS I and II and the respective Conventions resulting therefrom. Consequently, the right of all States, including the land-locked, to exploit the maritime resources of the water column extended to all the maritime areas outside the territorial sea-measuring not more than 12 nm. from the baselines.

The development leading to the creation of the EEZ-concept, therefore, had to take account of the rights of the land-locked and geographically disadvantaged States and to compensate them for the disadvantages suffered by them from the evolving legal situation. For, most of the maritime resources being located in the maritime belt adjacent to the coast, the claims of the coastal States would exclude the LLGDS from the greatest part of easier accessible maritime resources the exploitation of which, under the legal regime existing so far, has been open to all States.

Despite proposals and declarations from some coastal States in the preparatory stage of UNCLOS III which, guided by the above-mentioned considerations, provided for uncontested rights of LLGDS to participate in the exploitation of the natural resources of the EEZ (e.g. Malta, China and, in some respect, Argentina) the majority of the coastal States proposals, at the eve of UNCLOS III, accorded such

rights only under very restrictive conditions or denied them at all.

In the initial stage of UNCLOS III, the most concise formulation of the rights claimed by the LLGDS was to be found in the document sponsored by 22 LLGDS comprising developed as well as developing States. This document, on the one side, recognized the right of the coastal State to establish a zone for the purpose of exploring and exploiting the living and non-living resources therein and counter-balanced it, on the other, by the right of the LLGDS to participate in the exploration and exploitation of the natural resources of the zone of neighbouring coastal States "on an equal and non-discriminatory basis". The States concerned could decide upon appropriate agreements to facilitate the orderly development and the rational exploitation of the living resources in this area; the exercise of the right concerning non-living resources should be determined by equitable arrangements. For the benefit of the coastal State, the LLGDS were precluded from transferring their rights to third States, except with the purpose of obtaining technical or financial assistance. Furthermore all States should be bound to make contributions to the International Authority out of the revenues derived from the exploitation of non-living resources. However, these provisions did not purport to prohibit agreements on the implementation of these rights on a collective basis within a certain region or subregion. Generally, disputes on these rights should be subject to the compulsory settlement of dispute procedure so that the LLGDS would be in a position to assert their rights through an international judicial organ.

In the general statements at that stage of the Conference, the LLGDS stressed that they could not recognize and accept

the EEZ-concept unless their rights were safeguarded so that they would not suffer disproportionate losses in their maritime options by the establishment of such coastal State zones.

The proposals of the coastal States at the beginning of UNCLOS III revealed that these States too were aware of the necessity to provide in the future convention for the rights of the LLGDS to participate in the exploitation of the natural resources of EEZ situated nearby. Thus, the draft elaborated by 18 developing coastal States granted developing LLGDS "the right to exploit the living resources of the EEZ of neighbouring States" accompanied by the duty to bear the corresponding obligations. Although this provision conferred even participation rights upon the LLGDS it contained still drawbacks by referring only to developing LLGDS and declaring this right subject to the full sovereignty of the coastal State concerned.

The proposal of nine coastal States did not incorporate an explicit provision on the right of the LLGDS, but committed its sponsors by a note to include a formulation on equitable rights of access to these resources on the basis of bilateral, subregional or regional agreements for nationals of developing LLGDS in later proposals. A perusal of the various proposals presented by coastal States proves that quite a number of these States intended to concede merely restricted rights to the LLGDS the exercise of which should depend on the discretionary power of the coastal State and which should be subject to the exclusive jurisdiction of that State; some other proposals granted the land-locked States only preferential rights over third States in the surplus as determined by the coastal State. The various formulations of Provision 94, 195 and 196 in the document on the "Main trends" reflect the situation at the end of the Caracas session.

The drafts elaborated by various^{groups} and addressed to the Chairmen of the Main Committee in order to assist them in the composition of the Single Negotiating Text (SNT) demonstrate the discrepancy of views existing among the members of the Conference concerning this matter. Three drafts could be distinguished which proposed different solutions: the Evensen-Paper (Art. 9 - 11), the draft of the Group of 77 and the draft of the Group of LLGDS.

The LLGDS-Paper made already certain substantial concessions to the coastal States as it provided that the terms and conditions of these rights should be agreed upon by the States concerned through equitable arrangements so that the land-locked States could exercise such rights on an equal and non-discriminatory basis, the geographically disadvantaged, however, only on a equitable basis with the coastal States. Thus, this draft distinguished already between LL and GDS with respect to the content of the rights to be enjoyed by them. It also took care of the difficulties a coastal State having only limited maritime resources might encounter by virtue of these obligations as it provided for the equitable distribution of these rights of the LLGDS among the coastal States of a region so not to overburden a particular one among them. The question of a right relating to non-living resources was already separated from that to living resources in order to offer a more flexible approach.

It must be admitted that the "Working Paper on the Exclusive Economic Zone" elaborated by the Group of 77, to a large extent, corresponded to the claims of the LLGDS. Art. 5 granted the LL even a right to the exploitation of living resources by virtue of which nationals of the LL States should enjoy rights equal to nationals of coastal States or a fair and equitable share of these resources would be allotted to them. Likewise, such a share of these resources should be apportioned to developing GDS.

Compared with these drafts, the relevant articles in the Evensen-Paper (art. 9 - 11) contained the most restrictive regulation of this matter: it conceded the land-locked States only an access to participate in the exploitation of the living resources without defining this access as a right. Concerning the LLGDS, it stipulated merely a pactum de negotiando whereby preference should be given to the economic needs of the coastal State. Only in the case of a State being dependent on participation in the exploitation of the EEZ of other States due to its nutritional needs, this pactum de negotiando became a pactum de contrahendo concerning the granting of preferential rights.

Despite the restricted membership of the Evensen-Group at the time of the elaboration of this text and irrespective of the objections this text met within the Group itself, the SNT followed, to a large extent, the most restrictive text. Art. 57 conceived the participation rights on an equitable basis and, still more restrictive than the Evensen-Paper, subjected this right to the powers of the coastal State as defined in art. 50 and 51. Hence, this right was in fact narrowed down to a bestowed right comparable to a kind of a privilege depending on the will of the coastal State to grant it. The SNT almost ignored the demands of the GDS by referring only to developing States without EEZ which were granted a participation right on an equitable basis. The rights expressed in this text were, however, still more restricted because they did not precede the rights of other States. Consequently, this text left it to the coastal States to decide whether LLGDS would obtain participation rights, since these States, by granting access to the living resources in their zone, were entitled to give preference to another third State over a neighbouring LLGDS.

The LLGDS proposed an amendment to this text which was still more conciliatory than their former drafts by following the structure of art. 57 and 58 SNT and relating solely to living resources. It accorded the LL States only an equitable share to be obtained by them through a right exercised on an equal basis and restricted this right of developed LL States to zones of developed coastal States so that developing coastal States were released from the duty towards developed LL States. The amendments concerning GDS allotted similar participation rights, in the first instance, only to developing GDS meanwhile developed GDS were taken into consideration only insofar as they had been already habitually utilizing the living resources in the EEZ of a certain region. Demonstrating by that fact their economic needs they should be allowed to continue these activities on an equitable basis subject to appropriate agreements. Thus, this provision complied with one of the basic ideas underlying the SNT that the rights to exploit maritime resources should be distributed according to the economic needs and interests.

Despite serious attempts by LLGDS and certain coastal States to reconcile their opposing views and despite major concessions made by the LLGDS in favour of the coastal States, the latter would not agree to depart their original restrictive position; they presented formulations subjecting the rights of the LLGDS to their discretion and according to which their interests ranked above those of the LLGDS. The RSNT - following coastal State views - thus failed to accommodate the legitimate rights and interests of the LLGDS.

Subsequent efforts to find common ground between the positions of the LLGDS and the coastal States led to the text elaborated by the Chairman of the Group of 21, Ambassador Nandan. This draft tried more than any other text to find a balance of interests and needs of the States concerned in a

very explicit manner; the land-locked States thus should be granted a right to the surplus on an preferential basis over third States, the terms and conditions of which should be agreed upon in a consensual way. Lacking such surplus, equitable arrangements should determine to what extent the land-locked States should obtain their share taking into account various factors relevant to this situation. The GDS (called in this text "States with special characteristics") should also be entitled to participate in the exploitation of the surplus of living resources subject to the particular circumstances of each case; however, the developing States among them should enjoy preference to the surplus over third States otherwise equitable arrangements should give them access to the living resources by taking into account all the circumstances relevant to the case. Thus, this text albeit granting participation rights to the LLGDS accomodated, also the interests and needs of the coastal States concerned and relieved them of burdens which might be caused by an extended and absolute participation right of the LLGDS. In view not so much of their own interests than that of the coastal States the LLGDS regarded that formulation as a workable basis of further negotiations. This is evidenced by the draft submitted by them to the President of the Conference for inclusion in the ICNT. The relevant articles reflected to a large measure the Nandan-text insofar as e.g. the relevant agreements should take into account various factors like the effect of such rights on the economy of the coastal State and the availability of living resources; the developed GDS would not enjoy such rights in case of no surplus.

The evolution of the position of the LLGDS from claiming unlimited participation rights concerning living and non-living resources to the most recent and modest text proves,

undoubtedly, that these States have already made major concessions with a view to facilitate finding a compromise in this matter; their present text balances in a very precise way the factors applicable to the determination the extent of the right to participate in the exploitation of the living resources in a specific case.

Nevertheless, the coastal States by objecting to the Nandan-text and presenting an own text, fell back to an even more restrictive position than they had held in the Seabed Committee. Their text, dated 27 June 1977, did not recognize any rights accorded to LLGDS since it referred only to "access" the coastal States would grant in the exercise of their sovereign rights, subject to art. 50 and 51, so that LLGDS had no preference over third States. Moreover, a coastal State would be allowed to close its EEZ to a land-locked State if this State was entitled to participate in the exploitation of another EEZ whether it exercised this right or not. Developed GDS were not mentionend at all in this text only the developing GDS obtaining access on an equitable basis to other EEZ; this "access" of these States as well as of the land-locked was restricted solely to the surplus to be defined by the coastal State. Hence, this wording even reduced the rights provided for in the RSNT and could, obviously, not be regarded as a step forward towards the accomodation of the legitimate rights and interests of the LLGDS and towards finding a compromise which would take into account the needs, demands, requirements and interests of all States in order to base internationale law upon the principles of equity and social justice.

The ICNT merely repeating the SNT and RSNT has, therefore to be modified accordingly if general agreement on a new law of the Sea is to be achieved.

A N N E X E S :

1. Excerpt from: Seabed Committee: Tentative Comparable Table (Report vol. V)
2. Doc. A/CONF.62/L.4 (26 July 1974)
3. Doc. A/CONF.62/C.2/L.39 (5 August 1974)
4. Doc. A/CONF.62/C.2/L. 82 (26 August 1974)
5. Doc. on the "Main Trends" (1974)
6. Evensen-Paper (24 April 1975)
7. Excerpt from: LLGDS-Paper (2 May 1975)
8. Group of 77 - Paper (1 May 1975)
9. Excerpt from: "Informal Single Negotiating Text" (7 May 1975)
10. LLGDS-Amendments to SNT (8 April 1976)
11. Evensen-Amendments to SNT (27 April 1976)
12. Excerpt from: Revised Single Negotiating Text (6 May 1976)
13. Nandan-Proposal (8 September 1976)
14. Coastal-States-Group-Proposal (29 June 1977)
15. LLGDS-Amendments to RSNT (28 June 1977)
16. Excerpt from: "Informal Composite Negotiating Text"

9.4 Rights and interests of land-locked countries in regard to living resources of the sea

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(8) Yaoundé: conclusions	Part I (a) (4): "4. The exploitation of the <u>living resources</u> within the <u>economic zone</u> should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States desiring to exploit these resources are effectively controlled by African capital and personnel."	10
(12) USA: Fisheries	Part V, in part: "V. <u>Utilization and allocation</u> . "In order to assure the maximum utilization and equitable allocation of coastal and anadromous resources, the coastal State shall apply the following principles: A. B. The coastal State shall provide access by other States, under reasonable conditions, to that portion of the resources not fully utilized by its vessels on the basis of the following priorities: (1) States that have traditionally fished for a resource, subject to the conditions of sub-paragraph C; (2) other States in the region, particularly land-locked States and other States with limited access to the resources, with whom joint or reciprocal arrangements have been made; and (3) all States, without discrimination among them. C. States whose fishermen harvest a resource under regulation by a coastal State may be required, without discrimination, to pay	7.3; 7.5

- | <u>Abbreviated title</u> | <u>Provisions</u> | |
|-------------------------------------|--|---------------|
| (28) OAU Declaration | <u>Exclusive Economic Zone concept including Exclusive Fishery zone</u>
Paragraph 9:

"9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out;" | 10 |
| (29) Uruguay:
territorial sea | Section VII. <u>Régime for countries having no sea-coast</u>

"Article ... Coastal States shall, through bilateral or subregional agreements, as the case may require, in which the interests of all parties are given fair consideration, accord to States having no sea-coast which are their neighbours or which belong to the same subregion preferential treatment over third States with regard to fishing rights in that area of their territorial sea which is not reserved exclusively for their nationals. Such preferential treatment shall be reserved for national enterprises of the States having no sea-coast which operate in the area exclusively with ships flying the flag of those States and whose catch is intended for domestic or industrial consumption in the said States, or for national enterprises of the States having no sea-coast which are associated with national enterprises of the coastal States." | 9.4 |
| (31) Bolivia: Land-locked countries | Article [14]:

" <u>Article [14]</u> - The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those laying in the sea-bed or the sub-soil thereof within the limits of the jurisdictional sea (Exclusive Economic Zone)." | 5.1; 5.4; 6.7 |

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(46) Argentina: draft articles	"14. Through bilateral and, where appropriate, subregional agreements, a coastal State shall facilitate for neighbouring States having no sea-coast the right of access to the sea and of transit. In the same way agreement shall be reached with States having no sea-coast on an equitable régime for the exercise in the maritime area of fishing rights which shall be preferential in relation to third States. The said preferential rights shall be granted provided that the enterprises of the State which wishes to exploit the resources in question are effectively controlled by capital and nationals of that State and that the ships which operate in the area fly the flag of that State."	9.2.1
(47) Canada, India, Kenya, Senegal, Sri Lanka: draft articles on fisheries	<p data-bbox="1008 758 1176 790"><u>"ARTICLE 6</u></p> <p data-bbox="510 821 1624 1252">"Nationals of a developing land-locked State shall enjoy the privilege to fish in the neighbouring area of the exclusive fishery zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege and the area to which they relate shall be settled by agreement between the coastal State and the land-locked State concerned. This privilege will be available to the nationals of the land-locked State concerned and cannot be transferred to third parties by lease or license, by establishing joint collaboration ventures, or by any other arrangement. Jurisdiction and control over the conservation, development and management of the resources of the specified area shall lie with the coastal State in whose zone that area is located."</p>	6.6.1; 6.6.3
(48) Afghanistan, Austria, Belgium, Bolivia, Nepal, Singapore: resource jurisdiction	<p data-bbox="1008 1292 1198 1324"><u>"ARTICLE II</u></p> <p data-bbox="510 1356 1624 1564">"(1) Land-locked and coastal States which cannot or do not declare a Zone pursuant to Article I (hereinafter referred to as the Disadvantaged States), as well as natural or juridical persons under their control, shall have the right to participate in the exploration and exploitation of the living resources of the Zone of neighbouring coastal States on an equal and non-discriminatory basis. For the purpose of facilitating the exercise</p>	

Cross referenceAbbreviated titleProvisions

development and the rational management and exploitation of the living resources of particular Zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in that Zone.

"(2) In the Zone the coastal State may annually reserve for itself and such other Disadvantaged States as may be exercising the right under the preceding paragraph, that part of the maximum allowable yield, as determined by the relevant international fisheries organization, which corresponds to the harvesting capacity and needs of these States.

7.3; 10.2

"(3) States other than those referred to in paragraph 1 shall have the right to exploit that part of the remaining allowable yield subject to payments, to be determined under equitable conditions, and regulations laid down by the coastal States for the exploitation of the living resources of the Zone.

10.2

"(4) Disadvantaged States shall not transfer the right conferred upon them in paragraph 1 to third parties. However, this provision shall not preclude the Disadvantaged States from entering into arrangements with third parties for the purpose of enabling them to develop viable fishing industries of their own.

10.2

"(5) A developed coastal State, which establishes a Zone pursuant to Article I, paragraph 1, shall contribute per cent of its revenues a/ derived from the exploitation of the living resources in that Zone to the International Authority. Such contributions shall be distributed by the International Authority on the basis of equitable sharing criteria.

10.2

7.5

"(6) In exploiting the living resources the States referred to in paragraphs 1 and 3 of this Article shall observe the regulations and measures pertaining to management and conservation in the respective Zones.

10.2

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(49) 15 powers: draft articles	<p>"<u>ARTICLE VIII</u>: Nationals of a developing land-locked State and other geographically disadvantaged States shall enjoy the privilege to fish in the exclusive economic Zones of the adjoining neighbouring coastal States. The modalities of the enjoyment of this privilege shall be settled by agreement between the coastal State and the land-locked State concerned. The right to prescribe and enforce management measures in the area shall be with the Coastal State.</p> <p>"The African States endorse the principle of the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference."</p> <p>.....</p> <p>"<u>ARTICLE X</u>: Neighbouring developing States shall give reciprocal preferential treatment to one another in the exploitation of the living resources of their respective Economic Zones."</p>	9.2.3
(67) Netherlands: intermediate zone	<p>Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67).</p>	6.4; 6.6.2
(68) Zaire: fishing	<p>"<u>Article 1</u></p> <p>Neighbouring developing States shall grant one another preferential treatment in their respective economic zones with regard to the exploitation of living resources. The procedure for the exercise of such rights shall be settled by arrangement between the States concerned.</p> <p>The benefit of the preferential treatment provided for in the first paragraph shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States.</p> <p>The conservation and management of the resources of the entire economic zone shall lie within the competence and authority of the coastal State."</p>	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 10.2; 10.3; 15
		6.6.2; 7.3

10. Rights and interests of shelf-locked states and states with narrow shelves or short coastlines

Cross reference

<u>Abbreviated title</u>	<u>Provisions</u>	
(8) Yaoundé: Conclusions	"Part I (a) (4) The exploitation of the living resources within the economic zone should be open to all African States both land-locked and near land-locked, provided that the enterprises of these States desiring to exploit these resources are effectively controlled by African capital and personnel."	6.2; 9.4
(28) OAU Declaration	"Part C. <u>Exclusive economic zone concept including exclusive fishery zone</u> 9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the landlocked <u>and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out.</u> "	9.4

10.3 Special interests and needs of developing shelf-locked states
and states with narrow shelves or short coastlines

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(43) China: Working paper	"2. Exclusive economic zone or exclusive fishery zone, para.(3): "(3) A coastal State shall, in principle, grant to the land-locked and <u>shelf-locked States</u> adjacent to its territory common enjoyment of a certain proportion of the rights of ownership in its economic zone. The coastal State and its adjacent land-locked and shelf-locked States shall, through consultations on the basis of equality and mutual respect for sovereignty, conclude bilateral or regional agreements on the relevant matters."	9.2
(49) Fourteen Power Draft: Exclusive economic zone	<u>Article III</u> "The limits of the Economic Zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The Economic Zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea."	9.2
(67) Netherlands: intermediate zone	Articles (1), (2), (3), (4), (5), (6), (7), (8) - Texts reproduced in 7.1 under (67)	6.1; 7.1; 7.2; 7.3; 7.5; 9.2; 9.4; 10.2 15

<u>Abbreviated title</u>	<u>Provisions</u>	<u>Cross reference</u>
(68) Zaire: fishing	<u>"Article 2</u>	6.4; 9.2

Land-locked States and geographically disadvantaged States shall have the right to participate, on a footing of equality and without discrimination, in the exploitation of the living resources of the economic zones of neighbouring coastal States.

The detailed procedure for the exercise of such a right may be determined on a bilateral or regional basis in suitable arrangements.

The benefit of that right shall, however, be reserved to nationals of those States or to enterprises under the real and effective control of those States and for their sole account."

DOCUMENT A/CONF.62/L.3 AND ADD.1-4*

Afghanistan, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Republic of Yemen, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Federal Republic of Germany, Fiji, Finland, France, Gambia, German Democratic Republic, Ghana, Greece, Guatemala, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Republic of Korea, Republic of Viet-Nam, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Western Samoa, Yemen, Yugoslavia, Zaire and Zambia: draft resolution¹⁷³

[Original: Spanish]
[11 July 1974]

TRIBUTE TO SIMÓN BOLÍVAR THE LIBERATOR

The Third United Nations Conference on the Law of the Sea.

Considering that 24 July 1974 marks a further anniversary of the birth of Simón Bolívar, the Liberator, a man of vision and early champion of international organization, and a historic figure of universal dimensions,

Considering further that the work of Simón Bolívar the Liberator, based on the concepts of liberty and justice as foundations for the peace and progress of peoples, has left an indelible mark on history and constitutes a source of constant inspiration,

Decides to pay a public tribute of admiration and respect to Simón Bolívar the Liberator, in the plenary meeting of the Third United Nations Conference on the Law of the Sea.

*The purpose of documents A/CONF.62/L.3/Add.1 to 4 of 17, 19, 22 and 23 July 1974, was to add 97 sponsors to the 24 sponsors of document A/CONF.62/L.3 (Argentina, Bahamas, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay).

¹⁷³ Adopted by the Conference at the 43rd meeting.

DOCUMENT A/CONF.62/L.4

Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway: working paper

[Original: English]
[26 July 1974]

The representatives of Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway have held a number of informal consultations on certain issues relating to the law of the sea. They are presenting the following draft articles as a possible framework for discussion on those issues by the Third United Nations Conference on the Law of the Sea.

Preparation of this informal working paper does not imply withdrawal of the proposals submitted, individually or jointly, by some of the above-named States, or substitution of such proposals or stated positions by the present working paper; nor does the paper necessarily reflect their final positions and is without prejudice to declared national positions.

DRAFT ARTICLES

TERRITORIAL SEA: GENERAL PROVISIONS

Article 1

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and, in the case of archipelagic States, their archipelagic waters, over an adjacent belt of sea defined as the territorial sea.
2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.
3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2

The breadth of the territorial sea shall not exceed 12 nautical miles to be measured from the applicable baseline.

Article 3

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 4

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

4. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

ARCHIPELAGIC STATES

Article 5

1. An archipelagic State is a State constituted wholly or mainly by one or more archipelagos.

2. For the purpose of these articles, an archipelago is a group of islands, including parts of islands, with interconnecting waters and other natural features which are so closely interrelated that the component islands, waters and other natural features form an intrinsic geographical, economic and political entity or which historically have been regarded as such.

Article 6

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.

2. If the drawing of such baselines encloses a part of the sea traditionally used by an immediate and adjacent neighbouring State for direct communication from one part of its territory to another part, such communication shall continue to be respected.

Article 7

1. The waters enclosed by the baselines, hereinafter referred to as archipelagic waters, regardless of their depth or distance from the coast, belong to and are subject to the sovereignty of the archipelagic State to which they appertain.

2. The sovereignty and rights of the archipelagic State extend to the air space over its archipelagic waters as well as to the water column, the sea-bed and subsoil thereof, and to all of the resources contained therein.

3. Innocent passage of foreign ships shall exist through archipelagic waters.

[Further articles will be required relating to the régime and description of passage through specified sea lanes of the archipelagic waters.]

Article 8

The foregoing provisions regarding archipelagic States shall not affect the established régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast, as expressed in article 4.

ARCHIPELAGOS FORMING PART OF A COASTAL STATE

Article 9

1. A coastal State with one or more off-lying archipelagos, as defined in article 5, paragraph 2, which form an integral part of its territory, shall have the right to apply the provisions of articles 6 and 7 to such archipelagos upon the making of a declaration to that effect.

2. The territorial sea of a coastal State with one or more off-lying archipelagos exercising its rights under this article will be measured from the applicable baselines which enclose its archipelagic waters.

Article 10

The provision regarding archipelagos forming part of a coastal State shall not affect the established régime concerning coastlines deeply indented and cut into and the waters enclosed by a fringe of islands along the coast, as expressed in article 4.

Article 11

The provision regarding archipelagos forming part of a coastal State shall be without prejudice to the régime of archipelagic States, as provided for in articles 5, 6 and 7.

ECONOMIC ZONE

Article 12

The coastal State exercises in and throughout 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 the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters; (b) the other rights and duties specified in these articles with regard to the protection and preservation of the marine environment and the conduct of scientific research. The exercise of these rights shall be without prejudice to article 19 of this convention.

Article 13

The outer limit of the economic zone shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

[The co-sponsors recognize the requirement for equitable rights of access on the basis of regional, subregional or bilateral agreements for nationals of developing land-locked States and developing geographically disadvantaged States (to be defined) to the living resources of the exclusive economic zones of neighbouring coastal States. They will shortly be presenting articles to this effect.]

Article 14

In the economic zone, ships and aircraft of all States, whether coastal or not, shall enjoy freedom of navigation and overflight subject to the exercise by the coastal State of its rights within the area, as provided for in this convention.

CONTINENTAL SHELF

Article 15

The coastal State shall exercise its rights and perform its duties in the economic zone without undue interference with other legitimate uses of the sea, including, subject to the provisions of this convention, the laying of cables and pipelines.

Article 16

The emplacement and use of artificial islands and other installations on the surface of the sea, in the waters and on the sea-bed and subsoil of the economic zone shall be subject to the authorization and regulation of the coastal State.

Article 17

In exercising their rights under this convention, States shall not interference with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Article 18

The coastal State shall ensure that any exploration and exploitation activity within its economic zone is carried out exclusively for peaceful purposes.

[Further specific articles will be required in relation to the economic zone.]

Article 19

1. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources.

2. The continental shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles.

3. Paragraph 2 of this article shall be without prejudice to the provisions concerning delimitation between adjacent and opposite States contained in articles and other rules of international law.

[Further provisions will be required on the subject of article 19 including provisions to cover the precise demarcation of the limits of the continental margin beyond 200 miles; the use of the shelf for peaceful purposes only; delimitations between opposite and adjacent States, with retention of existing rights, including rights under bilateral agreements; and the relationship between the continental shelf and the economic zone.]

DOCUMENT A/CONF.62/L.5

Documentation of the Conference: note by the Secretary-General

[Original: English]
[8 August 1974]

Under resolution 3067 (XXVIII), the General Assembly transmitted to the Conference "the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and all other relevant documentation of the General Assembly and the Committee". Following from this decision of the General Assembly, the Conference decided, in adopting rule 32 of the rules of procedure, that "the initial documentation of the Conference shall consist of the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and of all other relevant documentation of the General Assembly and the Committee". In view of this provision and in order to avoid unnecessary reproduction and duplication of documentation, all amendments to and revisions of proposals contained in the initial documentation will identify the text involved by reference to the present document (A/CONF.62/L.5) and to the original symbol and number of the particular document concerned.

DOCUMENT A/CONF.62/L.6

Statement by the Chairman of the Joint Committee of the Congress of Micronesia submitted on behalf of the Congress by the United States of America*

[Original: English]
[27 August 1974]

INTRODUCTION

On behalf of the people of Micronesia, I express our appreciation for the opportunity to address this Conference to you, Sir, and to the United States, which administers Micronesia on behalf of the United Nations. I wish also to thank the host country, Venezuela, for the gracious hospitality shown to us. I shall cover only points of vital interest to Micronesia.

The views expressed in these remarks are not necessarily consistent with the positions of the United States Delegation. I speak for Micronesia and for its people, and for no one else.

Micronesia consists of more than two thousand small islands, scattered over a large area of the Central Pacific. Our

principal island groups are the Carolines, the Marshalls, and the Marianas. Our land area is extremely small, totalling only a little more than seven hundred square miles. Our population is fairly evenly distributed throughout the Micronesian area, with small numbers of people inhabiting large numbers of islands. With only two exceptions, all of our islands are less than 50 square miles in area. Our smallest inhabited islands are less than one square kilometer in area.

For hundreds of generations our people have depended upon our sea resources. The sea still provides our primary source of

*Circulated in accordance with the decision taken by the Conference at its 49th meeting.

3. Foreign fishermen may be allowed to fish in the economic zone of a developing coastal State by the grant of a special licence and in accordance with the provisions of articles 16, 17, 18, 19 and 20 of this Convention.

Article 16

When granting foreign vessels permission to fish in the economic zone and in order to ensure an equitable distribution of living resources, a coastal State shall observe, while respecting the priority of the States specified in articles 18 and 19 of this Convention, the following order:

(a) States which have borne considerable material and other costs of research, discovery, identification and exploitation of living resource stocks, or which have been fishing in the region involved;

(b) Developing countries, land-locked countries, countries with narrow access to the sea or with narrow continental shelves, and countries with very limited living marine resources;

(c) All other States without discrimination.

Article 17

Any questions of payment for the grant of licences to foreign fishermen to fish in the economic zone of a developing coastal State shall be settled in accordance with the provisions of this Convention and the recommendations of the competent international fishery organizations and by agreement between the States concerned.

Payment for fishing permits granted to foreign fishermen in the economic zone of a developing coastal State shall be levied on a reasonable basis and may take various forms.

Article 18

Neighbouring developing coastal States may allow each other's nationals the right to fish in a specified area of their economic zones on the basis of long and mutually recognized use. The conditions for the exercise of this right shall be es-

ablished by agreement between the States concerned, and such right cannot be transferred to a third party.

Article 19

Developing States which are land-locked or which have a narrow outlet to the sea or a narrow continental shelf shall enjoy the privilege of fishing in the economic zone of a neighbouring coastal State on the basis of equality with the nationals of that State. The conditions governing the enjoyment of this privilege shall be worked out by agreement between the parties concerned.

Article 20

1. Coastal States in whose rivers anadromous species of fish (*salmonidae*) spawn shall have sovereign rights over such fish and all other living marine resources within the economic zone and preferential rights outside the zone in the migration area of anadromous fish.

2. Fishing by foreign fisheries for anadromous species may be carried on by an agreement between the coastal State and another interested State establishing regulatory and other conditions governing fishing by foreign nationals.

3. Priority in obtaining the right to fish for anadromous species shall be given to States participating jointly with the coastal States in measures to renew that species of fish, particularly in expenditure for that purpose, and to States which have traditionally fished for anadromous species in the region concerned.

Article 21

In order to enable the fishing fleets of other States whose fishermen have habitually fished in the economic zone established pursuant to article 1 of this Convention to change over to working under the new conditions, a coastal State shall continue to grant the fishermen specified in this article the right to fish in the economic zone for a transition period of not less than three years after the entry into force of this Convention.

DOCUMENT A/CONF.62/C.2/L.39

Afghanistan, Austria, Belgium, Bhutan, Bolivia, Botswana, Finland, Iraq, Laos, Lesotho, Luxembourg, Mali, Nepal, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on participation of land-locked and other geographically disadvantaged States in the exploration and exploitation of the living and non-living resources in the area beyond the territorial sea

[Original: English]
[5 August 1974]

Article 1

Subject to the provisions of these articles, coastal States shall have the right to establish, adjacent to their territorial sea, a . . . zone, the breadth of which shall not exceed . . . nautical miles from the baselines from which the breadth of the territorial sea is measured, for the purpose of exploring and exploiting the living and non-living resources therein.

Article 2

Land-locked and other geographically disadvantaged States¹⁵ shall have the right to participate in the exploration and exploitation of the living resources of the . . . zone of neighbouring coastal States¹⁶ on an equal and non-discrimina-

¹⁵ The precise scope of the term "other geographically disadvantaged States" is still to be defined.

¹⁶ The expression "neighbouring coastal States" not only refers to States adjacent to each other, but also includes States of a region situated within reasonable proximity to a land-locked or other geographically disadvantaged State.

tory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in those zones.

Article 3

Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the non-living resources of the . . . zone of neighbouring coastal States on an equal and non-discriminatory basis. Equitable arrangements for the exercise of this right shall be made by the States concerned.

Article 4

1. Land-locked and other geographically disadvantaged States shall not transfer their rights under articles 2 and 3 to third States, except when otherwise agreed upon by the States concerned.

2. The provisions of paragraph 1 shall, however, not preclude land-locked and other geographically disadvantaged States from obtaining technical or financial assistance from third States, or appropriate international organizations, for the purpose of enabling them to develop viable industries of their own.

Article 5

1. All States deriving revenues from the exploitation of the non-living resources of the . . . zone shall make contributions to the International Authority at the rate of . . . per cent of the net revenues.

2. The International Authority shall distribute these contributions on the same basis as the revenues derived from the exploitation of the international sea-bed area.

Article 6

Coastal States and land-locked and other geographically disadvantaged States within a region or subregion may enter into any arrangement for the establishment of regional or subregional . . . zones with a view to giving effect to the provisions of articles 2 and 3 on a collective basis.

Article 7

Any dispute arising from the interpretation and application of the provisions of the foregoing articles shall be subject to the procedure for the compulsory settlement of disputes provided for in this Convention.

DOCUMENT A/CONF.62/C.2/L.40 AND ADD.1

Belgium, Denmark, France, Germany (Federal Republic of), Ireland, Italy, Luxembourg, and Netherlands: draft articles on fisheries

[Original: French]
[5 and 28 August 1974]

This proposal for a new fisheries régime is intended merely as a basis for discussion. It is not complete and does not necessarily reflect the final views of the delegations submitting it.

These draft articles would be incorporated into an over-all treaty on the law of the sea.

Article 1

1. Subject to the articles set forth below, all States shall have the right to allow their nationals to engage in the exploitation of the fishery resources of the sea.

2. Such exploitation shall be regulated for the benefit of nationals of all States in such a way as to ensure the rational exploitation and conservation of the fishery resources of the sea in the interest of mankind as a whole.

3. For these purposes:

(a) In the zone referred to in article 5, coastal States shall enjoy the fishing rights defined in these articles;

(b) All States shall maintain close co-operation at both the world and the regional levels in accordance with the following articles.

I. PRINCIPLES OF RATIONAL EXPLOITATION AND CONSERVATION

Article 2

1. Measures necessary for maintaining, re-establishing or attaining the maximum yield from fishing shall be adopted by States and organizations. These measures shall be based on scientific data and take into account technical and economic considerations. They shall be adopted, subject to these articles, in the light of the regional situation and without discrimination as to form or substance.

2. The measures referred to in paragraph 1 shall be formulated having regard to the need to secure a supply of food for human consumption.

Article 3

The measures referred to in article 2 may include:

- (a) Fixing the total allowable catch and its possible allocation;
- (b) Regulation of fishing activity;
- (c) The establishment of closed seasons;
- (d) A temporary ban on fishing in certain areas of the sea;

(e) Any technical measures (relating, for example, to fishing gear, mesh sizes, fishing methods, minimum sizes of fish caught, etc.).

II. RIGHTS AND OBLIGATIONS OF COASTAL STATES

Article 4

In a zone beyond its territorial sea,¹⁷ hereinafter called "the zone", the coastal State may exercise the rights and powers set forth in these articles.

Article 5

1. The zone shall not extend beyond . . . nautical miles measured from the baseline of the territorial sea.

2. The extent of the zone shall be determined by the coastal State, within the limit referred to in paragraph 1, taking into account all relevant factors, in particular the geographical characteristics of the area and the fishery resources and their distribution off its coasts.

Article 6¹⁸

Where the coasts of two States are opposite or adjacent to each other, the delimitation of their respective zones within the limit specified in article 5 shall, failing agreement between them, be established in accordance with the provisions of article

Article 7

1. When in the interests of conserving any species it is necessary for the coastal State to fix a total allowable catch within its zone, it shall determine the total allowable catch so as to ensure the maintenance of the maximum sustainable yield.

2. The coastal State shall submit the figures determined pursuant to paragraph 1 to the appropriate regional or sectoral organizations. Those organizations may, on the basis of all relevant scientific data, recommend other figures.

3. Two or more coastal States may by mutual agreement decide to request a regional or sectoral fishing organization

¹⁷The breadth of the territorial sea (maximum 12 miles) is dealt with elsewhere, in the provisions relating to the territorial sea.

¹⁸As this article concerns a problem that is not peculiar to fisheries, it should contain a reference to a more general provision in the Convention.

DOCUMENT A/CONF.62/C.2/L.81

Canada: working paper on the special case of salmon—the most important anadromous species

[Original: English]
[23 August 1974]

This paper summarizes the unique position of the various species of salmon in the world of fisheries management. It is submitted to provide the basis in fact and in equity for the development of an appropriate régime for the best use of this valuable resource.

Salmon are unique in returning from the sea to the same fresh waters where they were born, to spawn and leave their fertilized eggs to develop in the same gravel beds. Following hatching, some salmon migrate directly to the sea as small fry; other species must live for one to several years in fresh water lakes or streams.

While salmon grow and mature in the open sea, they occupy the upper layers of cold northern waters where they are not serious competitors for the food supply of other valuable species. In the open sea they are found mainly in areas within the proposed 200-mile economic zones, but also, to a considerable degree, in areas beyond national jurisdiction.

Salmon are the only fish occurring in the open sea which man can and does increase by positive cultural measures. Such measures can be taken only by the State of origin.

Mixed in distant waters, salmon runs separate to return unerringly to their home streams. In distant waters salmon runs which need special protection are mixed with runs which are abundant; only as they approach their home streams (the very streams where they were bred) can the salmon runs be cropped separately and in accordance with the catches each run can support.

Salmon reach their greatest weight as they approach their home streams. During their migrations from the open sea to the spawning grounds, salmon grow faster than they die off. The greatest yield can be obtained by fishing the runs close to their home streams.

Strict regulations are needed to let the right number of spawners through the fishery to the spawning streams. This must be done by assessments of the runs as they appear, and prompt and often drastic restriction of fishing to let the optimum spawning run through. This requires costly supervision and enforcement, as well as co-operation of the fishermen. Only the State of origin of the salmon can carry out this essential function.

Salmon must have unobstructed access to their spawning grounds, which may be as much as 1,500 miles inland from the

sea. This involves heavy direct expenses in removal of natural obstructions (e.g. landslides) and construction of fish passes. There is also much indirect cost to the State of origin in fore-going hydroelectric development, irrigation projects, flood control and other benefits, all of which would involve dams obstructing the passage of salmon. For example, power dams of great potential value have been kept off the Fraser River in British Columbia in order to maintain the productivity of one of the world's great salmon rivers. The State of origin must also protect salmon waters from pollution.

Artificial means of increasing salmon production are becoming ever more effective. Large-scale projects to increase salmon production include provision of artificial channels where natural spawning grounds are inadequate, hatcheries to increase the numbers and proportions of fry produced from salmon eggs, and associated facilities for rearing small salmon safe from the enemies and fluctuations in water levels which threaten them in nature. These salmon culture techniques have, in recent years, passed the experimental stage to that of demonstrated effectiveness. In North America alone, hundreds of millions of dollars will be spent in such efforts.

Both the management of the fishery and the development of artificial means of producing more salmon have required and continue to require intensive scientific research. The States of origin of salmon have already spent hundreds of millions of dollars in research on salmon.

Only the State of origin can protect and culture salmon and effectively manage the fishery. All the steps noted above can be carried out only by the State in whose rivers the salmon breed—the State of origin. No other State can see that the right number of salmon get through the fishery to spawn. No other State can keep salmon rivers and lakes unobstructed and unpolluted. No other State can take positive measures to increase salmon production by artificial means such as man-made spawning channels, hatcheries and rearing facilities. Without these effective and costly actions by the State of origin, there would be no commercial salmon runs.

A régime must be found which assures for the State of origin the fruits of its efforts and so encourages it to continue to bear the costs. This requires curtailment of the fishing of salmon in the open sea outside national jurisdiction and co-operation with the State of origin by other States through whose zones the salmon may migrate.

DOCUMENT A/CONF.62/C.2/L.82

Gambia, Ghana, Ivory Coast, Kenya, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Morocco, Senegal, Sierra Leone, Sudan, Tunisia, United Republic of Cameroon, United Republic of Tanzania and Zaire: draft articles on the exclusive economic zone

[Original: English]
[26 August 1974]

Article 1

A coastal State has the right to establish beyond its territorial sea an exclusive economic zone which shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

Article 2

1. In the exclusive economic zone a coastal State shall have sovereignty over the living and non-living resources. It shall have sovereign rights for the purpose of regulation, control,

exploration, exploitation, protection and preservation of all living and non-living resources therein.

2. The resources referred to in paragraph 1 of this article, shall encompass the living and non-living resources of the water column, the sea-bed and the subsoil.

3. Subject to article 6, no other State has the right to explore and exploit the resources therein without the consent or agreement of the coastal State.

Article 3

A coastal State shall also have exclusive jurisdiction within the exclusive economic zone, *inter alia*, for the purposes of:

(a) Control, regulation and preservation of the marine environment including pollution control and abatement;

(b) Control, authorization and regulation of scientific research;

(c) Control and regulation of customs and fiscal matters related to economic activities in the zone.

Article 4

A coastal State shall have the exclusive right to make and enforce regulations relating to, *inter alia*, the following:

(a) The authorization and regulation of drilling for all purposes;

(b) The construction, emplacement, operation and use of artificial islands and other installations;

(c) Establishment and regulation of safety zones around such off-shore islands and installations;

(d) The licensing of fishing vessels and gear;

(e) Closed fishing seasons;

(f) Types, sizes and amount of gear; and numbers, sizes and types of fishing vessels;

(g) Quota and sizes of fish that may be caught;

(h) The conduct of research, disposition of samples and reporting of associated scientific data.

Article 5

1. In the exclusive economic zone all States shall enjoy the freedom of navigation, overflight and laying of submarine cables and pipelines.

2. In the exercise of the freedoms referred to in paragraph 1 of this article, States shall ensure that their activities in the exclusive economic zone are carried out in such a manner as not to interfere with the rights and interests of the coastal State.

Article 6

1. Developing land-locked and other geographically disadvantaged States have the right to exploit the living resources of

the exclusive economic zones of neighbouring States and shall bear the corresponding obligations.

2. Nationals of land-locked and other geographically disadvantaged States shall enjoy the same rights and bear the same obligations as nationals of coastal States in the exploitation of the living resources of the exclusive economic zone.

3. Bilateral, subregional or regional arrangements shall be worked out for the purposes of ensuring the enjoyment of the rights and the carrying out of the obligations referred to in paragraphs 1 and 2 of this article in full respect of the sovereignty of the States concerned.

Article 7

States in a region may establish regional or subregional arrangements for the purposes of developing and managing the living resources, promoting scientific research, preventing and controlling pollution, and for the purpose of peaceful settlement of disputes.

Article 8

1. The delimitation of the exclusive economic zone between adjacent or opposite States shall be done by agreements between them on the basis of principles of equity, the median line not being the only method of delimitation.

2. For this purpose, special account shall be taken of geological and geomorphological factors as well as other special circumstances which prevail.

Article 9

Each State shall ensure that any exploration or exploitation activities within its exclusive economic zone is carried out exclusively for peaceful purposes and in such a manner as not to interfere with the legitimate interests of other States in the region or those of the international community.

Article 10

No State shall be entitled to construct, maintain, deploy or operate, in the exclusive economic zone of another State, any military installation or device or any other installation or device for whatever purposes without the consent of the coastal State.

Article 11

In respect of a territory whose people have not achieved full independence or some other self-governing status recognized by the United Nations, the rights to the resources of its exclusive economic zone belong to the people of that territory. These rights shall be exercised by such people for their benefits and in accordance with their needs and requirements. Such rights may not be assumed, exercised or benefited from or in any way be infringed upon by a foreign Power administering or occupying or purporting to administer or to occupy such territory.

DOCUMENT A/CONF.62/C.2/L.83

Canada: draft article on a definition of an international strait

[Original: English]
[26 August 1974]

An international strait is a natural passage between land formations which:

(a) (i) Lies within the territorial sea of one or more States at any point in its length and

(ii) Joins . . .

(b) Has traditionally been used for international navigation.

- (e) Closed fishing seasons;
- (f) Types, sizes and amount of gear; and numbers, sizes and types of fishing vessels;
- (g) Quota and sizes of fish that may be caught;
- (h) The conduct of research, disposition of samples and reporting of associated scientific data.

Formula C

1. A coastal State has the following rights and competences in its exclusive economic zone:

(a) Exclusive right to explore and exploit the renewable living resources of the sea and the sea-bed;

(b) Sovereign rights for the purpose of exploring and exploiting the non-renewable resources of the continental shelf, the sea-bed and the subsoil thereof;

(c) Exclusive right for the management, protection and conservation of the living resources of the sea and sea-bed, taking into account the recommendations of the appropriate international or regional fisheries organizations; . . .

(d) Exclusive jurisdiction for the purpose of protection, prevention and regulation of other matters ancillary to the rights and competences aforesaid and, in particular, the prevention and punishment of infringements of its customs, fiscal, immigration or sanitary regulations within its territorial sea and economic zone.

2. A coastal State shall have the exclusive right to authorize and regulate in the exclusive economic zone, the continental shelf, ocean bed and subsoil thereof, the construction, emplacement, operation and use of off-shore artificial islands and other installations for purposes of the exploration and exploitation of the non-renewable resources thereof.

3. A coastal State may establish a reasonable area of safety zones around its off-shore artificial islands and other installations in which it may take appropriate measures to ensure the safety both of its installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and functions of the installations.

Formula D

1. The coastal State exercises in and throughout 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 the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters; (b) the other rights and duties specified in these articles with regard to the protection and preservation of the marine environment and the conduct of scientific research. The exercise of these rights shall be without prejudice to article . . . (Continental shelf).

2. . . . The emplacement, and use of artificial islands and other installations on the surface of the sea, in the waters and on the sea-bed and subsoil of the economic zone, shall be subject to the authorization and regulation of the coastal State.

Formula E

1. (a) The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters.

(b) The coastal State exercises in the economic zone the other rights and duties specified in this Convention, including those with regard to the protection and preservation of the marine environment and the conduct of scientific research.

(c) The exercise of these rights shall be in conformity with and subject to the provisions of this Convention, and shall be without prejudice to the provisions of part III of this chapter.

2. (a) The coastal State shall have the exclusive right to authorize and regulate in the economic zone, the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources, or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State in the economic zone.

(b) The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation.

(c) The provisions of article . . . (Installations) shall apply *mutatis mutandis* to such artificial islands and installations.

3. The coastal State shall have the exclusive right to authorize and regulate drilling for all purposes in the economic zone.

4. With respect to activities subject to its sovereign or exclusive rights, the coastal State may take such measures in the economic zone as may be necessary to ensure compliance with its laws and regulations in conformity with the provisions of this Convention.

Provision 91

No State shall be entitled to construct, maintain, deploy or operate, in the exclusive economic zone of another State, any military installation or device or any other installation or device for whatever purposes without the consent of the coastal State.

Provision 92**Formula A**

The coastal State shall exercise its rights and obligations in the economic zone in accordance with the provisions of this Convention, with due regard to other legitimate uses of the high seas and bearing in mind the need for a rational exploitation of the natural resources of the sea and the preservation of the sea environment.

Formula B

1. The coastal State shall exercise its rights and perform its duties in the economic zone without unjustifiable interference with navigation or other uses of the sea, and ensure compliance with applicable international standards established by the appropriate international organizations for this purpose.

2. In exercising their rights, States shall not unjustifiably interfere with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Provision 93

A coastal State, in its exclusive economic zone, shall enforce applicable international standards regarding the safety of navigation.

Provision 94**Formula A**

1. Developing land-locked and other geographically disadvantaged States have the right to exploit the living resources of the exclusive economic zones of neighbouring States and shall bear the corresponding obligations.

2. Nationals of land-locked and other geographically disadvantaged States shall enjoy the same rights and bear the same obligations as nationals of coastal States in the exploitation of the living resources of the exclusive economic zone.

3. Bilateral, subregional or regional arrangements shall be worked out for the purposes of ensuring the enjoyment of the rights and the carrying out of the obligations referred to in paragraphs 1 and 2 of this article in full respect of the sovereignty of the States concerned.

Formula B

1. The régime applicable to any economic zone or patrimonial sea provided for in article . . . of this Convention shall be subject to the rights of developing geographically disadvantaged States as contained in articles . . .

2. In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

3. The States of the region shall co-operate to the fullest extent in order to secure the enjoyment of this right.

Formula C

Land-locked and geographically disadvantaged States shall have the right to explore and exploit the living resources of the exclusive economic zones of neighbouring coastal States, subject to appropriate bilateral or regional arrangements or agreements with such coastal States.

Formula D

1. Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the living resources of the . . . zone of neighbouring coastal States on

an equal and non-discriminatory basis. For the purpose of facilitating the orderly development and the rational exploitation of the living resources of the particular zones, the States concerned may decide upon appropriate arrangements to regulate the exploitation of the resources in those zones.

2. Land-locked and other geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the non-living resources of the . . . zone of neighbouring coastal States on an equal and non-discriminatory basis. Equitable arrangements for the exercise of this right shall be made by the States concerned.

3. The expression "neighbouring coastal States" not only refers to States adjacent to each other, but also includes States of a region situated within reasonable proximity to a land-locked or other geographically disadvantaged State.

Provision 95

Formula A

1. All States deriving revenues from the exploitation of the non-living resources of the . . . zone shall make contributions to the International Authority at the rate of . . . per cent of the net revenues.

2. The International Authority shall distribute these contributions on the same basis as the revenues derived from the exploitation of the international sea-bed area.

Formula B

The sovereign rights of the coastal State over its continental shelf are exclusive. The revenues derived from the exploitation of the natural resources of the continental shelf shall not be subject to any revenue sharing.

2. Resources of the zone

Provision 96

The natural resources of the (economic zone patrimonial sea) comprise the renewable and non-renewable natural resources of the waters, the sea-bed and the subsoil thereof.

3. Freedom of navigation and overflight

Provision 97

Formula A

In the economic zone, ships and aircraft of all States, whether coastal or not, shall enjoy the right of freedom of navigation and overflight and the right to lay submarine cables and pipelines with no restrictions other than those resulting from the exercise by the coastal State of its rights within the area.

Formula B

A coastal State, in its exclusive economic zone, is under an international duty not to interfere without reasonable justification with:

- (a) The freedom of navigation and overflight, and
- (b) The freedom of laying of submarine cables and pipelines.

A coastal State shall not erect or establish artificial islands and other installations, including safety zones around them, in such a manner as to interfere with the use of all States of recognized sea lanes and traffic separation schemes essential to international navigation.

Formula C

The rights of the coastal State in the economic zone shall be exercised without prejudice to the rights of all other States, whether having access to the sea or land-locked, as recognized in the provisions of this Convention and in international law, including the right to freedom of navigation, freedom of overflight, and freedom to lay submarine cables and pipelines.

Formula D

1. In the exclusive economic zone all States shall enjoy the freedom of navigation, overflight and laying of submarine cables and pipelines.

2. In the exercise of freedoms referred to in paragraph 1 of this article, States shall ensure that their activities in the exclusive economic zone are carried out in such a manner as not to interfere with the rights and interests of the coastal State.

4. Regional arrangements

Provision 98

Formula A

Coastal States and land-locked and other geographically disadvantaged States within a region or subregion may enter into any arrange-

ment for the establishment of regional or subregional . . . zones with a view to giving effect to the provisions of articles . . . on a collective basis.

Formula B

Coastal States and neighbouring land-locked States shall have the right to establish jointly regional economic zones between the 12-mile territorial sea and up to a maximum distance of 200 nautical miles, measured from the applicable baselines of the territorial sea.

Formula C

States in a region may establish regional or subregional arrangements for the purposes of developing and managing the living resources, promoting scientific research, preventing and controlling pollution, and for the purpose of peaceful settlement of disputes.

5. Limits: applicable criteria

Provision 99

Formula A

The outer limit of the patrimonial sea shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

Formula B

The limits of the economic zone shall be fixed in nautical miles in accordance with criteria in each region, which take into consideration the resources of the region and the rights and interests of developing land-locked, near land-locked, shelf-locked States and States with narrow shelves and without prejudice to limits adopted by any State within the region. The economic zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining the territorial sea.

6. Fisheries

6.1 Exclusive fishery zone

Provision 100

Formula A

In the economic zone the coastal State shall exercise sovereign rights for the purpose of exploration, exploitation, conservation and management of the living resources including fisheries, in this zone, and shall adopt from time to time such measures as it may deem necessary and appropriate. The living resources may be plant or animal, and may be located on the water surface, within the water column, on the sea-bed or in the subsoil thereof.

Formula B

The coastal State exercises exclusive rights for the purpose of regulating fishing within the economic zone, subject to the provisions of these articles.

Provision 101

All fishing activities in the exclusive economic zone and the rest of the sea shall be conducted with due regard to the interests of the other States in the legitimate uses of the sea. In the exercise of their rights, the other States shall not interfere with fishing activities in the exclusive economic zone.

Provision 102

The coastal State shall co-operate with the appropriate regional and international organizations concerned with fishery matters when exercising its rights over living resources in the economic zone and, taking into account their recommendations, shall maintain the maximum allowable catch of fish and other living resources.

Provision 103

Formula A

The coastal State may allow nationals of other States to fish in its exclusive economic zone, subject to such terms, conditions and regulations as it may from time to time prescribe. These may, *inter alia*, relate to the following:

- (a) Licensing of fishing vessels and equipment, including payment of fees and other forms of remuneration;
- (b) Limiting the number of vessels and the number of gear that may be used;

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.

2 May 1975

REGIME ON THE LIVING AND NON-LIVING RESOURCES OF THE ECONOMIC ZONE

Note: These draft articles do not necessarily represent the final position of the members of the Group of Land-locked and Geographically Disadvantaged States on the question of the economic zone and do not prejudice their position on previous or future draft proposals.

Article 1

Subject to the provisions of these articles coastal States shall have the right to establish, adjacent to their territorial sea, an economic zone which shall not extend beyond nautical miles from the baseline from which the breadth of the territorial sea is measured. Coastal States may exercise in that economic zone, rights for the purpose of exploring and exploiting the natural resources, whether living or non-living, of the water column, the seabed and subsoil.

Article 2

In exercising their rights relating to the economic zone, coastal States shall pay due regard to the rights of other States in that zone.

Article 3

All States, whether coastal or not shall enjoy in the 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, subject to the provisions of this Convention.

Article 4

Land-locked and geographically disadvantaged States shall have the right to participate in the exploration and exploitation of the living and non-living resources of the economic zones of coastal States in accordance with the provisions of these articles.

Article 5

1. Land-locked and geographically disadvantaged States shall not transfer their rights under Article 4 to third States, except when otherwise agreed upon by the States concerned.
2. The provisions of paragraph 1 of this article shall not preclude land-locked and geographically disadvantaged States from obtaining technical or financial assistance from third States, or from international organizations, for the purpose of enabling them to enjoy their rights in the economic zones.

Article 6

Activities carried out pursuant to these articles by land-locked and geographically disadvantaged States within the economic zones of a coastal State shall be subject to the provisions of the arrangements to be worked out in accordance with these articles and other relevant provisions of this Convention.

Article 7

1. Equitable arrangements for the purpose of the exercise of the right referred to in article 4 shall be worked out between a land-locked or geographically disadvantaged State and the neighbouring coastal State or States.
2. Neighbouring coastal State shall mean a State which is adjacent to or situated in the [close] vicinity of the land-locked or geographically disadvantaged State concerned.

Article 8

If it is determined by objective criteria and agreed upon by the land-locked or geographically disadvantaged State concerned and its neighbouring coastal State or States that the economic zone of that coastal State or States has only limited resources, the arrangements referred to in Article 7 shall also be worked out between the land-locked or geographically disadvantaged State and one or more of the next adjacent or other coastal States of the region taking into account that the rights of participation in the economic zones of coastal States in the region shall be equitably distributed.

Article 9

1. The term "region" as used in Article 8 shall mean the geographical areas covered by the regional economic commissions of the United Nations.
2. The exercise of this right shall be subject to the principle that developed land-locked and geographically disadvantaged States shall only participate in the economic zones of developed coastal States.

Article 10

1. Coastal States, land-locked and geographically disadvantaged States within a region or sub-region shall, at the request of any of them, enter into negotiations with a view to concluding arrangements for the establishment of regional or sub-regional economic zones on a basis of equality.
2. The term "regional" or "sub-regional" economic zones means economic zones created by a group of three or more neighbouring States whether or not they are parties to agreements of economic integration for the purpose of joint exploration and exploitation of such zones.

Article 11

In exercising their right under Article 4 relating to living resources land-locked States shall be entitled to explore and exploit the living resources of the economic zones of the coastal States concerned on an equal and non-discriminatory basis, and geographically disadvantaged States on an equitable basis, with such coastal States.

Article 12

1. The arrangements referred to in Article 7 shall provide for joint ventures or any other form of participation with the coastal States concerned for the purpose of exploration and exploitation of the non-living resources of the respective economic zones.
2. The forms of participation referred to in paragraph 1 of this article shall be deemed to be equitable and economically meaningful if the land-locked or geographically disadvantaged State can obtain at least per cent of the total of the non-living resources extracted annually in the economic zone of the coastal States concerned.

The preceding articles shall be subject to the procedure for the settlement of disputes, including compulsory dispute settlement.

WORKING PAPER ON THE EXCLUSIVE ECONOMIC ZONE

Compliments of M. MONCEF KEDADI

Chairman of the Group of 77

FOR INFORMATION PURPOSES

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

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,

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

(Signed): M. MONCEF KEDADI

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.

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

- (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.

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.

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:

*/ 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.

- (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.

(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.

* * *

species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of these species.

Article 56

The provisions of this part shall not apply to sedentary species as defined in article 63, paragraph 4.

Article 57

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zones of adjoining coastal States on an equitable basis, taking into account the relevant economic and geographic circumstances of all the States concerned. The terms and conditions of such participation shall be determined by the States concerned through bilateral, sub-regional or regional agreements. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of neighbouring developed coastal States.

2. The provisions of this article are without prejudice to the provisions of articles 50 and 51.

Article 58

1. Developing coastal States which are situated in a subregion or region whose geographical peculiarities make such States particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the exclusive economic zones of their neighbouring States and developing coastal States which can claim no exclusive economic zones of their own shall have the right to participate, on an equitable basis, in the exploitation of living resources in the exclusive economic zones of other States in a subregion or region.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographic circumstances of all the States concerned, including the need to avoid effects detrimental to the fishing communities or to the fishing industries of the States in whose zones the right of participation is exercised.

3. The provisions of this article are without prejudice to the provisions of articles 50 and 51.

Article 59

Rights granted under the provisions of articles 57 and 58 to exploit living resources cannot without the express 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 arrangements.

Article 60

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

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

3. Coastal State penalties for violations of fisheries regulations in the exclusive 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.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify, through appropriate channels, the State of registry of the action taken and of any penalties subsequently imposed.

Article 61

1. The delimitation of the exclusive economic zone between adjacent or opposite States shall be effected by agreement in accordance with equitable principles, employing, where appropriate, the median or equidistance line, and taking account of all the relevant circumstances.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in part... (Settlement of disputes).

3. Pending agreement, no State is entitled to extend its exclusive economic zone beyond the median line or the equidistance line.

4. For the purposes of this article, "median line" means the line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

5. In delimiting the boundaries of the exclusive economic zone, any lines which are drawn in accordance with the provisions of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

6. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Part IV: Continental shelf

Article 62

The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

Article 63

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

Karl Wolf
Chairman of the Group of Landlocked
and Geographically Disadvantaged States

New York
8 April 1976

Mr. Chairman,

As you may already be aware from the letter sent by me to the President of the Conference dated 17 March 1976 on behalf of the Group of landlocked and geographically disadvantaged States the Group cannot fully accept certain provisions of the Single Negotiating Text. In the context of the discussions of the articles on the proposed economic zone I have the honour to submit to you drafts concerning articles 57 and 58 of Part II of the Single Negotiating Text which were elaborated by the Group of landlocked and geographically disadvantaged States and which have received widespread support within that Group. The Group has authorized me to forward these draft articles to you and request you that these articles be duly taken into account when preparing the revised Single Negotiating Text. Proposals relating to the non-living resources of the proposed economic zone will be submitted subsequently.

In transmitting these above-mentioned draft articles to you, Mr. Chairman, I wish to point out furthermore that the view has also been expressed by members of the Group of landlocked and geographically disadvantaged States that to provide for the establishment of regional or subregional economic zones would be the best course to be followed by a future Convention. Proposals to that effect, which have also been discussed within the Group of landlocked and geographically disadvantaged States will be introduced in Committee II at the appropriate moment and circulated in writing.

Accept, Mr. Chairman, the assurances of my highest consideration.

Karl Wolf
Ambassador

Article 57

1 Notwithstanding the provisions of Articles 50 and 51, landlocked States shall have the right to explore and exploit the living resources of the economic zones of the coastal States of the same region or subregion on an equal basis in order to enable them to obtain an equitable share of the living resources of these zones.

2 For the implementation of the rights referred to in paragraph 1 of this article, which shall not be subject to the existence of surplus referred to in Article 51 (2), appropriate bilateral, regional or subregional agreements shall be concluded among the States concerned.

3 Developed landlocked States shall be entitled to exercise their rights only within the economic zones of developed coastal States of the same region or subregion.

Article 58

1 Notwithstanding the provisions of Articles 50 and 51 developing geographically disadvantaged States shall have the right to explore and exploit the living resources of the economic zones of the coastal States of the same region or subregion on an equal basis in order to enable them to obtain an equitable share of the living resources of these zones.

2 For the implementation of the rights referred to in paragraph 1 of this article which shall not be subject to the existence of surplus referred to in Article 51 (2), appropriate bilateral, regional or subregional agreements shall be concluded among the States concerned.

3 Subject to the provisions of Article 50, developed geographically disadvantaged States which have, habitually, within the region or subregion in which they are situated, been utilising the living resources in areas of the sea which fall within the economic zones of other developed coastal States, shall have the right to continue, on an equitable basis, the exploitation of the living resources in the economic zones of developed coastal States of this region or subregion. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements.

Article 57

1. Land-locked States shall have the right to participate on an equitable basis on the exploitation of the living resources of the exclusive economic zones of coastal States of the same region or subregion.
2. Developing land-locked States shall be entitled to exercise such rights on the basis of preference over other third States, except those States referred to in paragraph 2 of article 58.
3. The rights of developed land-locked States under this article shall be exercised only within the exclusive economic zone of developed coastal States, and shall not be exercised where such coastal State is overwhelmingly dependent on the living resources of the exclusive economic zone.
4. The exercise of rights under this article shall be subject to the provisions of articles 50 and 51.
5. The terms and conditions for the exercise of rights under this article shall be agreed upon by the States concerned through bilateral, subregional or regional agreements or arrangements.

Article 58

1. Geographically disadvantaged States shall have the right to participate on an equitable basis in the exploitation of the living resources of the exclusive economic zones of coastal States of the same region or subregion.
2. Developing geographically disadvantaged States which by reason of specific regional geographical characteristics are particularly dependent, for the satisfaction of the nutritional needs of their population or for the maintenance of a major sector of their economy, upon the exploitation of the living resources of the exclusive economic zone of coastal States of the same region or subregion, shall be entitled to exercise the rights referred to in paragraph 1 above on the basis of preference over other third States, except those States referred to in article 57, paragraph 2.
3. The rights of developed geographically disadvantaged States under this article shall be exercised only within the exclusive economic zone of developed coastal States and shall not be exercised where such coastal State is overwhelming dependent on the living resources of the exclusive economic zone.
4. The exercise of rights under this article shall be subject to the provisions of articles 50 and 51.
5. The terms and conditions for the exercise of rights under this article shall be agreed upon by the States concerned through bilateral, subregional or regional agreements or arrangements.

Article 59

1. In the implementation of articles 57 and 58, account shall be taken of the relevant economic and geographic circumstances of all the States concerned, including the need for rational management of the living resources. The rights provided in those articles shall be subject to the need to avoid effects detrimental to the fishing communities or the fishing industries of the States in whose exclusive economic zones the rights of participation are exercised. In allotment of such rights, account shall also be taken of the need to avoid inequities or disequilibrium among the various States concerned within that region or subregion and the need to minimize the burden for any single coastal State.

2. The provisions of articles 57 and 58 are without prejudice to the right of coastal States to grant, subject to article 52, to land-locked or geographically disadvantaged States on a regional, subregional or bilateral basis, more extensive rights of participation in the exploitation of the living resources in their exclusive economic zones than provided for in those articles, or to enter into agreements or other arrangements with adjoining States in respect of access to the living resources of its exclusive economic zone.

3. Rights exercised under articles 57 and 58 cannot without the express 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 arrangements.

the management, including harvesting, 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 57

Sedentary species

This Chapter does not apply to sedentary species as defined in paragraph 4 of article 65.

Article 58

Right of land-locked States

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zones of adjoining coastal States on an equitable basis, taking into account the relevant economic and geographical circumstances of all the States concerned. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of adjoining developed coastal States.

2. This article is subject to the provisions of articles 50 and 51.

3. Paragraph 1 is without prejudice to arrangements agreed upon in regions where the coastal States may grant to land-locked States of the same region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 59

Right of certain developing coastal States in a subregion or region

1. Developing coastal States which are situated in a subregion or region whose geographical peculiarities make such states particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the exclusive economic zones of their neighbouring States and developing coastal States which can claim no exclusive economic zones of their own shall have the right to participate, on an equitable basis, in the exploitation of living resources in the exclusive economic zones of other States in a subregion or region.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographical circumstances of all the States concerned, including the need to avoid effects detrimental to the fishing communities or to the fishing industries of the States in whose zones the right of participation is exercised.

3. This article is subject to the provisions of articles 50 and 51.

Article 60

Restrictions on transfer of rights

1. Rights provided under articles 58 and 59 to exploit living resources cannot without the express 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 arrangements.

2. Paragraph 1 does not preclude States from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights provided under articles 58 and 59.

Article 61

Enforcement of laws and regulations of the coastal State

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

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

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

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify, through appropriate channels, the flag State of the action taken and of any penalties subsequently imposed.

Article 62

Delimitation of the exclusive economic zone between adjacent or opposite States

The delimitation of the exclusive economic zone between adjacent or opposite States shall be effected by agreement in accordance with

September 1976

Annex III

GROUP OF 21

Texts on articles 58, 59, 59 (bis) and 60 for the consideration of the
Group of 21 - proposed by Chairman, Ambassador Satya W. Nandan

Article 58

Right of land-locked States

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zone of coastal States of the same region or subregion on an equitable basis, taking into account the relevant economic and geographical circumstances of all the States concerned and in accordance with the provisions of this article.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements.

3. The right to participate referred to in paragraph 1 of this article relates to the surplus of the allowable catch as determined in accordance with the provisions of articles 50 and 51 and shall be on a preferential basis over third States. Provided that, in the event of their being no surplus in a significant number of species in a particular zone, the States concerned shall, by co-operation, establish an equitable arrangement on a bilateral, subregional or regional basis to allow for the participation of the land-locked State concerned in the exploitation of the living resources in such zone or zones as may be appropriate in the circumstances taking into account such factors as:

(a) The nutritional needs of the populations of the respective States concerned and their capabilities for satisfying these needs;

(b) The need to avoid effects detrimental to fishing communities or the fishing industries of the coastal State or part thereof;

(c) The extent to which the land-locked State is participating or has the right to participate in the exploitation of the exclusive economic zones of other coastal States;

(d) The extent to which the coastal State is accommodating other land-locked States and the need to avoid overburdening a particular coastal State or part thereof.

4. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of developed coastal States of the same region or subregion.

5. The above provisions are without prejudice to other arrangements agreed upon in regions or subregions where the coastal States may grant to land-locked States of the same region or subregion equal or other special treatment regarding the exploitation of the living resources in the exclusive economic zones.

Article 59

Right of States with special characteristics

1. Coastal States which are situated in a region or subregion whose geographical or marine biological and ecological characteristics make such States dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the exclusive economic zones of other States in the region or subregion, and coastal States which can claim no exclusive economic zones of their own, hereafter referred to collectively as "States with special characteristics", shall have the right to participate on an equitable basis in the exploitation of the living resources in the exclusive economic zones of other States in the same region or subregion in accordance with the provisions of this article.

2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographical circumstances of all the States concerned, including the extent and the availability of living resources of any exclusive economic zone of the State with special characteristics and the need to avoid effects detrimental to the fishing communities or the fishing industries of a State, including a part of a State, in whose zone the right to participation is exercised.

3. The right to participate referred to in paragraphs 1 and 2 of this article relate to the surplus of the allowable catch as determined in accordance with the provisions of articles 50 and 51, provided that the participation of developing States with special characteristics shall be on a preferential basis over third States. Provided that, in the event of there being no surplus in a significant number of species in a particular zone, a developing coastal State with special characteristics and the coastal State concerned shall, by co-operation, establish an equitable arrangement on a bilateral, subregional or regional basis to allow for the participation of the State with special characteristics in the exploitation of the living resources in such zone or zones as may be appropriate in the circumstances, taking into account in addition to the circumstances specified in paragraph 2 of this article the following:

(a) The nutritional needs of the populations of the respective States concerned and their capabilities for satisfying these needs;

(b) The extent to which the coastal State is accommodating other States with special characteristics and land-locked States, and the need to avoid overburdening the coastal State or part thereof;

(c) The extent to which the State with special characteristics is participating or has the right to participate in the exploitation of the exclusive economic zones of other coastal States.

4. Nothing in this article shall preclude agreements being concluded whereby coastal States may grant to developed coastal States with special characteristics treatment more favourable than that provided for in this article. Provided always, that developed coastal States with special characteristics shall be entitled to exercise their rights provided in this article only in the exclusive economic zones of developed coastal States of the same region or subregion.

Article 59 (bis)

The provisions of articles 58 and 59 shall not apply in the case of a coastal state which is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 60

1. Rights provided under articles 58 and 59 to exploit living resources cannot, without the express consent of the coastal State, be transferred, to third States or their nationals by lease or licence, by establishing joint collaboration ventures or in any other manner which has the effect of such transfer.

2. Subject to the provisions of paragraph 1 States may obtain technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights provided under articles 58 and 59.

Article 60

Restrictions on transfer of access

1. The access granted under articles 58 and 59 to exploit living resources cannot, without the express consent of the coastal State, be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint collaboration ventures or by any other arrangements or means which may have the effect of such a transfer.
2. Subject to paragraph 1 of this article, the States concerned may obtain technical or financial assistance from third States or international organizations in order to facilitate their capabilities to exploit the living resources in accordance with the provisions of articles 58 and 59.

COASTAL STATES GROUP

June 29, 1977

Article 58

Access for landlocked States

1. In the exercise of their sovereign rights and subject to the provisions of articles 50 and 51, coastal States shall grant access to the exploitation of living resources of their exclusive economic zones to landlocked States of the same region or subregion, on an equitable basis, taking into account the relevant economic and geographic circumstances and in accordance with the provisions of this article.
2. The terms and modalities of such access shall be established by the States concerned through bilateral, subregional or regional agreements.
3. The access referred to in paragraph 1 of this article shall apply to the surplus of the allowable catch, determined in accordance with the relevant provisions of articles 50 and 51. Coastal States shall ensure that an appropriate access to the surplus be granted to landlocked States of the same region or subregion, taking into account, inter alia:
 - a) the nutritional needs of the populations of the respective States and their capacity to supply those needs;
 - b) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal States or of a part of them;
 - c) the extent to which the landlocked State, in accordance with the provisions of this article, is participating or is entitled to participate under bilateral, subregional or regional agreements, in the exploitation of living resources of the exclusive economic zones of other coastal States;
 - d) the extent to which a coastal State is granting access to other landlocked States or to States with special characteristics, and the need to avoid a particular burden for any single coastal State, or a part of it, of the region or subregion, in the exploitation of living resources of its exclusive economic zone.

4. Developed landlocked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same region or subregion, and taking into account the relative level of development of the States concerned in terms of per capita income.

5. The above provisions shall apply without prejudice to arrangements applicable in regions or subregions under which coastal States may grant to landlocked States of the same region or subregion or to adjoining States equal or other special treatment regarding the exploitation of living resources in the exclusive economic zones.

Article 59

Access for States with special characteristics

1. In the exercise of their sovereign rights and subject to the provisions of articles 50 and 51, coastal States, in accordance with the provisions of this article and taking into account the relevant economic and geographic circumstances, shall grant access on an equitable basis to the exploitation of living resources in their exclusive economic zones to developing coastal States of the same subregion whose geographical characteristics make such States particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of living resources in the exclusive economic zones of their neighbouring States and to developing coastal States of the same subregion which can claim no exclusive economic zones of their own, thereafter collectively designed as "States with special characteristics".

2. The terms and modalities of such access shall be established by the States concerned through bilateral or subregional agreements.

3. The access referred to in paragraph 1 of this article shall apply to the surplus of the allowable catch, determined in accordance with the relevant provisions of articles 50 and 51. Coastal States shall ensure that an appropriate access to the surplus be granted to States with special characteristics of the same subregion, taking into account, inter alia,

- a) the extent and availability of living resources in the territorial sea or the exclusive economic zone of the States with special characteristics;
- b) the nutritional needs of the populations of the respective States and their capacity to supply those needs;
- c) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal States or of a part of them;
- d) the extent to which the State with special characteristics, in accordance with the provisions of this article, is participating or is entitled to participate under bilateral or subregional agreements, in the exploitation of living resources of the exclusive economic zones of other coastal States;
- e) the extent to which a coastal State is granting access to other States with special characteristics or to landlocked States, and the need to avoid a particular burden for any single coastal State, or a part of it, of the subregion, in the exploitation of living resources of its exclusive economic zone.

4. The above provisions shall apply without prejudice to arrangements applicable in regions or subregions under which coastal States may grant to other States of the same region or subregion equal or other special treatment regarding the exploitation of living resources in the exclusive economic zone.

Article 59 bis

Exemption to the obligation of granting access

Provisions of articles 58 and 59 shall not apply in the case of a coastal State whose economy is overwhelmingly dependent upon the exploitation of the living resources of its exclusive economic zone.

Article 60

Restrictions on transfer of access

1. The access granted under articles 58 and 59 to exploit living resources cannot, without the express consent of the coastal State, be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint collaboration ventures or by any other arrangements or means which may have the effect of such a transfer.
2. Subject to paragraph 1 of this article, the States concerned may obtain technical or financial assistance from third States or international organizations in order to facilitate their capabilities to exploit the living resources in accordance with the provisions of articles 58 and 59.

28 June 1977

Mr. President,

On behalf of the Group of Land-locked and Geographically Disadvantaged States I have the honour to transmit to you a set of proposals with the request that adequate account be taken of these texts in the preparation of the "Composite Informal Single Negotiating Text".

Accept, Mr. President, etc.

(Signed) Karl Wolf
Ambassador
Chairman of the Group of Land-locked
and Geographically Disadvantaged
States

Enclosures

H.E. Ambassador Hamilton Shirley Amerasinghe
President of the Third United Nations
Conference on the Law of the Sea
New York

77-76512

/...

Committee I:

Article 9, paragraph 1 (b)

(b) Ensuring equitable sharing of financial and other economic benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing countries and peoples, particularly the land-locked and geographically disadvantaged among them, in accordance with the relevant provisions of this Part of the Convention. 1/

Article 9, paragraph 1 (f)

(f) Enhancing opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and preventing monopolization of the exploration and exploitation of the resources of the Area.

Article 18 bis*

"Access of Land-Locked and Geographically Disadvantaged States To and From the Area and Their Participation in Activities in the Area."

1. Land-locked and geographically disadvantaged States shall have the right of free access to and from the area in order to enable them to participate in activities in the area, in accordance with the provisions of this part of the Convention.

2. Participation of land-locked and geographically disadvantaged States in activities in the area shall be promoted and protected, having due regard to the special needs and interests of these States in overcoming obstacles arising from their disadvantaged location, including remoteness from the sea.

Article 26, paragraph 2 (x)

In case the present wording of this provision should be retained the words "particularly the Land-locked and Geographically Disadvantaged States among them" shall be added.

* Article 18 bis is meant as an additional provision following the present article 18 of the RSNT.

1/ The question of including a specific provision on the distribution of benefits to be derived from the international sea-bed area will have to be considered. Many countries hold the view that a provision to that effect should be included in the Convention itself and the Group of Land-locked and Geographically Disadvantaged States has also submitted a proposal in relation thereto.

Article 26, paragraph 2 (xi)

(xi) Consideration of problems of a general nature arising for States in connexion with activities in the Area resulting from their land-locked and otherwise geographically disadvantaged location;

Article 27, paragraph 1 bis

1 bis. In electing the members of the Council in accordance with paragraph 1 above, the Assembly shall ensure that land-locked and geographically disadvantaged States are represented proportionately to their representation in the Assembly.

Annex II, paragraph 5 (b) (ii)

The Governing Board shall be composed of ...* qualified and competent members elected by the Assembly. Election of these members shall be based on the same criteria as contained in article 27 of this Part of the Convention for election of the members of the Council.

Article 65, paragraph 3

(To include in the second sentence of Mr. Evensen's Suggested Compromise Formula after the words "rights of coastal States" the following phrase):

Access of Land-locked and Geographically Disadvantaged States To and From the Area and Their Participation in Activities in the Area,

Committee II:

Article 44

Establishment and definition of the economic zone

1. Every coastal State has the right to establish an economic zone in accordance with the provisions of this chapter.
2. The term "economic zone" as used in the present Convention refers to those parts of the sea which extend from the seaward limit of the territorial sea of a coastal State up to a maximum breadth of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.
3. The provisions of section I of chapter V and other pertinent rules of international law shall apply to the economic zone in so far as they are not incompatible with this chapter.

* The Group would prefer a higher number of members of the Governing Board than 15 (for example 24).

Article 45

Rights, jurisdiction and duties of the coastal State in the economic zone

1. In the economic zone the coastal State shall have:

(a) (Sovereign) rights for the purpose of exploring and exploiting the natural resources, whether living or non-living, of the sea-bed and subsoil and the superjacent waters;

(b) Rights and jurisdiction as provided for in the present Convention with regard to:

(i) the establishment and use of artificial islands, installations and structures;

(ii) scientific research;

(iii) the preservation of the marine environment, including pollution control and abatement; and

(iv) the conservation and management of the natural resources.

2. The rights set out in this article with respect to the sea-bed and subsoil shall be exercised in accordance with chapter IV.

3. In exercising its rights and performing its duties under the present Convention in the economic zone, the coastal State shall respect the rights and interests of the other States as provided for in the present Convention.

Article 46

Rights and duties of other States in the economic zone

1. In the economic zone, all States, whether coastal or land-locked, enjoy the freedoms of navigation and overflight and of the laying of submarine cables and pipelines and other internationally lawful uses of the sea.

2. In the economic zone land-locked and geographically disadvantaged States enjoy rights relating to the natural resources in accordance with articles 58 and 59.

3. In exercising their rights and performing their duties under the present Convention in the economic zone, States shall respect the rights and interests of the coastal State as provided for in the present Convention.

Article 47

Resolution of conflicts concerning the rights and duties in the economic zone

Conflicts concerning the rights and duties of States in the economic zone shall be resolved in accordance with the procedures laid down in chapter ... (compulsory settlement of disputes procedures).

An alternative to the establishment of coastal State economic zones would be the establishment of regional or subregional economic zones as proposed by some members of the Group and as it appears in L.95 of the official records of the Conference (p. 171, vol. 6, English version).

Article 58

Rights of land-locked States

1. Land-locked States shall have the right to participate on an equitable basis in the exploitation of the living resources of the economic zone of coastal States of the same region or subregion.

2. The modalities of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, in accordance with the provisions of this article.

3. In the conclusion of such agreements, the following factors shall be taken into account:

(a) The need to avoid effects detrimental to the living resources of the economic zone as well as to the economy of all the States concerned;

(b) The extent to which the land-locked State is participating in the exploitation of the economic zones of other coastal States; and

(c) The extent to which other land-locked States are exercising their rights of participation in the zone.

4. Developed land-locked States shall, however, be entitled to exercise their rights provided in this article only within the economic zones of developed coastal States of the same region or subregion.

5. Nothing in this article shall preclude any coastal State from granting to a land-locked State more favourable treatment than that provided for in this article, including treatment equal with that of the coastal State itself.

Article 59

Rights of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate on an equitable basis in the exploitation of the living resources in the economic zones of other States in the same region or subregion.

2. The modalities of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the availability of living resources of any economic zone of the geographically disadvantaged State, and in accordance with the provisions of this article.

3. The rights to participate referred to in paragraphs 1 and 2 of this article relate to the surplus of the allowable catch, provided that the participation of the geographically disadvantaged States shall be on a preferential basis over third States other than land-locked States. In the event of there being no surplus of living resources in a particular zone, a developing geographically disadvantaged State may nevertheless participate in the exploitation of the living resources in such zone on an equitable basis which takes into account the following factors:

(a) The need to avoid effects detrimental to the living resources of the economic zone as well as to the economy of all the States concerned;

(b) The extent to which other geographically disadvantaged States and land-locked States are exercising their rights of participation in the zone; and

(c) The extent to which the geographically disadvantaged State is participating in the exploitation of the living resources of the economic zones of other coastal States.

4. Developed geographically disadvantaged States shall be entitled to exercise their rights provided in this article only in the economic zones of developed coastal States of the same region or subregion.

5. Nothing in this article shall preclude any coastal State from granting to a geographically disadvantaged State more favourable treatment than that provided for in this article.

6. For the purposes of this Convention, a geographically disadvantaged State is a coastal State:

(a) which, for geographic reasons, cannot claim an economic zone; or

(b) whose economic zone is less than 30 per cent of the area it could have claimed if it were able to extend the limit of its economic zone up to the maximum breadth permitted by this Convention; or

/...

(c) which, for geographic, biological or ecological reasons, exclusively natural in character, derive no substantial economic advantage from exploiting the living resources of its economic zone and whose rights of access to the living resources are adversely affected by the establishment of economic zones by other States.

N.B.

Paragraph 6 of this article should in the final draft Convention appear as a provision in the article concerning definitions.

Article 59 (bis)

The provision of articles 58 and 59 shall not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its economic zone.

Article 60

1. Rights provided under articles 58 and 59 to exploit living resources shall not be transferred to third States or their nationals by lease, licence, or by establishing joint collaboration ventures which have the effect of such transfer unless otherwise agreed upon by the States concerned.

2. Paragraph 1 does not preclude States from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights provided under articles 58 and 59.

III

Chapter IV:

The Group of Land-locked and Geographically Disadvantaged States holds the view that coastal States rights to the continental shelf should not extend more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 75

The term "high seas" as used in the present Convention means all parts of the sea which are beyond the outer limit of the territorial sea of a State without prejudice to the rights of the coastal State provided for in chapters III and IV of this Part of the Convention.

Article 109

1. Land-locked States shall have the right of free access to and from the sea for the purpose of exercising the rights provided for in the present Convention, including those relating to the freedoms of the seas and to the common heritage of mankind. To this end, land-locked States shall have the right of free transit through the territories of transit States by all means of transport.

2. For the purpose of implementing the right of free transit appropriate bilateral or multilateral agreements shall be concluded between the States concerned, in accordance with the provisions of the present Convention. However, absence of such agreements shall not be invoked by a transit State to deny the land-locked State the right of free access to and from the sea and the right of free transit through the territory of the transit State, as provided for in paragraph 1.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all indispensable measures to ensure that the rights provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

Article 110

Provisions of the present Convention, as well as special agreements relating to the exercise of the right of free access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Committee III

As to the regulation of the marine scientific research, the Group of Land-locked and Geographically Disadvantaged States attaches great importance to the retention of article 66, Part III, Revised Single Negotiating Text, and hopes that this article will also be included in the Composite Informal Single Negotiating Text.

Article 67

Catadromous species

1. A coastal 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 exclusive economic zone, shall be subject to the provisions of the present Convention concerning fishing in the zone.
3. In cases where catadromous fish migrate through the waters of another State or States, whether as juvenile or maturing fish, the management, including harvesting, 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 68

Sedentary species

This Part does not apply to sedentary species as defined in paragraph 4 of article 77.

Article 69

Right of land-locked States

1. Land-locked States shall have the right to participate in the exploitation of the living resources of the exclusive economic zones of adjoining coastal States on an equitable basis, taking into account the relevant economic and geographical circumstances of all the States concerned. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements. Developed land-locked States shall, however, be entitled to exercise their rights only within the exclusive economic zones of adjoining developed coastal States.
2. This article is subject to the provisions of articles 61 and 62.
3. Paragraph 1 is without prejudice to arrangements agreed upon in regions where the coastal States may grant to land-locked States of the same region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

/...

Article 70

Right of certain developing coastal States in a
subregion or region

1. Developing coastal States which are situated in a subregion or region whose geographical peculiarities make such States particularly dependent for the satisfaction of the nutritional needs of their populations upon the exploitation of the living resources in the exclusive economic zones of their neighbouring States and developing coastal States which can claim no exclusive economic zones of their own shall have the right to participate, on an equitable basis, in the exploitation of living resources in the exclusive economic zones of other States in a subregion or region.
2. The terms and conditions of such participation shall be determined by the States concerned through bilateral, subregional or regional agreements, taking into account the relevant economic and geographical circumstances of all the States concerned, including the need to avoid effects detrimental to the fishing communities or to the fishing industries of the States in whose zones the right of participation is exercised.
3. This article is subject to the provisions of articles 61 and 62.

Article 71

Non-applicability of articles 69 and 70

The provisions of articles 69 and 70 shall not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72

Restrictions on transfer of rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals by lease or licence, by establishing joint collaboration ventures or in any other manner which has the effect of such transfer unless otherwise agreed upon by the States concerned.
2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.