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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

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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-

tablished 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.

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[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-

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

¹⁶The 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.