

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

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**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

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 foregoing 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.