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THIRD LAW OF THE SEA CONFERENCE FISHING RIGHTS OF LANDLOCKED STATES*

TARIQ HASSAN**

I. INTRODUCTION

The developing law of the sea will add a new dimension to international law regarding acquisition of territory. For the first time in the history of the law of nations, we see a multilateral effort being made at the Third United Nations Conference on the Law of the Sea (the Conference) by different countries to acquire territory by international acquiescence.¹ Coastal states, mainly developing ones, are anxious to extend their sovereignty over as much maritime area adjacent to their seacoast as possible. This concern stems mainly from the growing awareness of the finiteness of the sea resources and the parallel fear that these resources are being overexploited and, in some cases, altogether drained by the technologically advanced nations.² Therefore, to salvage these resources some Latin American countries took the initiative on May 8, 1970 of declaring, *inter alia*, "the right [of coastal states] to establish the limits of their maritime sovereignty and jurisdiction in accordance with their geographical and geological characteristics and with the factors governing the existence of marine resources and the need for their rational utilization,"³ to be the basic principle of the law of the sea. Three months later, most Latin American countries again declared a similar, though more limited, principle in Lima.⁴

In view of these Declarations, several Latin American countries claim a territorial sea extending to 200 miles. Some states, mostly developed maritime states, protested against the notion of unilateral extension of coastal territory, advocating a narrow territorial sea limit. To strike a balance between the two views, some developing coastal states have propounded the "Exclusive Economic Zone" concept (the EEZ or the Zone),

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which advocates the establishment of a maritime zone for certain functional purposes under coastal state jurisdiction beyond a fixed territorial sea limit. The adoption of this concept, a central issue in the formulation of a new convention of the law of the sea, will not only alter the rights of coastal states themselves but will also affect the rights and interests of the landlocked⁵ states.

Because landlocked states suffer the same population problems that others do, a new interest in the sea as a source of protein has developed. Indeed, many landlocked nations have developed extensive markets within their borders for fish and fish products.⁶ Thus, in the formulation of the law of the sea, their traditional demand for unrestricted access to the sea for trading purposes has expanded to their current demand for participation in the exploration and exploitation of the living and nonliving resources of the sea.⁷ This paper, therefore, seeks to consider the salient aspects of the rights of landlocked states to participate in the exploitation of the living resources of the sea; it will do so by presenting a general review of the fishing rights of such states on the high seas and a more specific examination of similar rights in the EEZ. Since the latter rights are complementary to the EEZ, an attempt will be made to describe the evolution and the nature of the EEZ.

II. FISHING RIGHTS ON THE HIGH SEAS

A. *Traditional International Law and the 1958 Geneva Conventions on the Law of the Sea*

Freedom of fishing on the high seas, a basic principle of the law of the sea, has been enjoyed uncritically by the world community since the seventeenth century.⁸ It would follow, therefore, that the landlocked states have an incontrovertible right to fish on the high seas.

The Convention on the High Seas⁹ recognizes, *inter alia*, both the coastal and noncoastal states' freedom of fishing on the high seas, as a freedom recognized by "general principles of international law."¹⁰ This freedom is, however, to be exercised by a state with reasonable regard to the interests of other states. Since this Convention is merely "declaratory of established principles of international law,"¹¹ its rules apply irrespective of the extensiveness of its ratifications.¹²

The Convention on Fishing and Conservation of the Living Resources of the High Seas¹³ also provides that

[a]ll States have the right for their nationals to engage in fishing on the high seas, subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided for in this Convention, and (c) to . . . conservation of the living resources of the high seas.¹⁴

Thus, all states are required "to adopt, or to cooperate with other states in adopting, such measures for their respective nationals as may be necessary for the conservation of living resources of the high seas."¹⁵ Further, the Convention recognizes the "special interest [of a coastal state] in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea."¹⁶ To ensure this it provides that

[a] State whose nationals are engaged in fishing in any area of the high seas adjacent to the territorial sea of a State shall, at the request of that coastal State, enter into negotiations with a view to prescribing by agreement the measures necessary for the conservation of the living resources of the high seas in that area.¹⁷

B. *Prospective in View*

Even now that the law of the sea is in a state of flux, the right of fishing on the high seas by both coastal and landlocked states continues to be a basically accepted norm of the freedom of the high seas. The proposed draft Convention on the Seabed and the Ocean Floor and the Subsoil Thereof Beyond the Limits of National Jurisdiction,¹⁸ if accepted, will establish an International Seabed Authority which will conduct various activities including the exploitation of the resources of the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction.¹⁹ Resources in this proposed draft has been defined to mean "resources *in situ*."²⁰ This clearly indicates that living resources like fish (which tend to move around) are not intended to be brought under the regulatory framework of the proposed International Seabed Authority. Consequently, the basic provisions in the 1958 Geneva Conventions regarding freedom of fishing on the high seas are retained in substance in the SNT.²¹ Similarly, the general and specific limitations on such freedom as laid down in the 1958 Geneva Conventions are also provided in the SNT.²² The interests of the coastal states in the management and conservation of the living resources are also recognized by the SNT:

Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek . . . to agree upon the measures necessary for the conservation of these stocks in the adjacent area.²³

Some added regulations concerning fishing of migratory species²⁴ and anadromous stocks²⁵ tend to limit further the generally accepted freedom of fishing on the high seas.

Except for these few limitations applicable to all the states alike, the right to fish on the high seas by the landlocked states has never been in question. While this right was clearly spelt out in both 1958 Geneva Conventions, a lacuna remained in the exact description of the area of the high seas. Though the Convention on the High Seas defined high seas to mean "all parts of the sea that are not included in the territorial sea or in the internal waters of a state,"²⁶ it failed to agree on the breadth of the territorial sea. Similarly, the Convention on the Territorial Sea and the Contiguous Zone²⁷ provides a description of the territorial sea without defining its limits.²⁸ However, this convention has been interpreted by some writers to have laid down impliedly a maximum limit of twelve miles that any coastal state a party to the convention may validly claim as the breadth of its territorial sea.²⁹ Such an interpretation is based on the extent of the contiguous zone allowed under this convention, which, according to article 24(2), "may not extend beyond twelve miles *from the baseline from which the breadth of the territorial sea is measured*" [emphasis added]. This implied twelve-miles limit cannot be accepted as being universally applicable. Unlike the Convention on the High Seas, this convention does not profess its provisions to be "generally declaratory of established principles of international law", and, therefore, it only applies to states which are parties to it.

The Second Conference on the Law of the Sea, convened in 1960 primarily to settle the pending question of the breadth of the territorial sea also proved unsuccessful. Thus, claims and practices regarding the fixation of the breadth of the territorial sea vary among coastal states.³⁰

The right of the landlocked states to fish on the high seas begins where the territorial sea of a coastal state ends.³¹ In the absence of any settled limit of the territorial sea under international law, does this right of the landlocked states fluctuate according to the varying claims and practices of coastal states?³²

III. EXCLUSIVE ECONOMIC ZONE AND THE LANDLOCKED STATES

A. *Fishing Perspective on Evolution of the EEZ Concept*³³

The EEZ Concept owes its evolution to the disagreement among the developed and the developing coastal states concerning the limit of the territorial sea; the developing coastal states preferred a wide territorial sea limit while the developed states advocated a narrow one. Obviously, since agreement on a new law of the sea would require reciprocal concessions, a compromise agreement was suggested by Venezuela at the 1971 summer session of the Seabed Committee.³⁴ This compromise agreement envisaged a territorial sea limit of twelve miles and an economic zone, called the patrimonial sea, not more than 200 miles in breadth from the base line of the territorial sea.³⁵ Since the Venezuelan delegate was aware of the disadvantages that the landlocked states were placed in vis-à-vis the coastal states, he suggested the consideration of "a compensatory system for the land-locked developing States within a regional framework."³⁶

Soon after the Venezuelan proposal, Kenya submitted a working paper on the EEZ concept to the Asian-African Legal Consultative Committee.³⁷ The basic purpose of the EEZ, as explained by the Kenyan delegate, was to "safeguard the economic interests of the coastal States in the waters and seabed adjacent to their coasts without unduly interfering with other legitimate uses of the sea by other States."³⁸ Like the Venezuelan proposal, the Kenyan working paper also recognized the disadvantageous position of developing landlocked states and thus proposed the solution of their problem on the basis of regional arrangements.³⁹

The EEZ concept was thereafter endorsed by most Caribbean⁴⁰ and African⁴¹ countries. Kenya took the initiative and tabled the first draft articles on the EEZ at the 1972 summer session of the Seabed Committee.⁴² This action stimulated a spate of proposals in the form of draft articles and working papers.⁴³ All these proposals commonly recognized a coastal state's competence to determine the extent of its exclusive jurisdiction and control over the natural resources of the maritime area adjacent to its territorial sea. Most of these proposals prescribed a maximum limit of 200 nautical miles for such an area measured from the baseline of the territorial sea.⁴⁴ Only five proposals dealt with the position of landlocked states in the EEZ. The proposal by Malta, recognizing the interests of the landlocked states, suggested that a coastal state be obligated to provide adjacent landlocked states access to the living resources of the zone on similar conditions applicable to its own nationals.⁴⁵ The Chinese

proposal required a coastal state to grant adjacent landlocked states "common enjoyment of a certain proportion of the rights of ownership in its economic zone."⁴⁶ The proposal by Argentina provided that the landlocked states be given preferential fishing rights in relation to third states that may be allowed by a coastal state to fish in its EEZ.⁴⁷ The proposal by Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia, Madagascar, Mauritius, Senegal, Sierra Leone, Somalia, Sudan, Tunisia, and United Republic of Tanzania extended to the developing landlocked states the "privilege to fish in the exclusive economic zones of the adjoining neighboring coastal States."⁴⁸ The proposal by Uganda and Zambia was totally different from all the other proposals in that it advocated the establishment of "regional or subregional economic zones."⁴⁹ Fisheries in these regional or subregional zones, according to this proposal, were to be "reserved for the exclusive use, exploration and exploitation by all the States within the relevant region or subregion."⁵⁰

Though the proposals noted above dealt with fisheries, Canada, India, Kenya, Madagascar, Senegal, and Sri Lanka introduced draft articles dealing with specific application of the concept of EEZ to fisheries.⁵¹ With respect to landlocked states, these draft articles provided that nationals "of a developing landlocked 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. . . ."⁵²

B. Response by Landlocked States

The landlocked states opposed the EEZ concept from its inception.⁵³ As explained by the Czechoslovakian delegate, "[i]t was not unnatural that landlocked countries, being excluded by their landlocked position from participation in the exploitation of the sea's living resources in territorial waters, should be opposed to any attempt to extend territorial waters beyond acceptable limits and to the idea of exclusive zones."⁵⁴ What was of even greater concern to the landlocked states was the fact that not even fishing rights were being granted to them in areas being subtracted from the "common heritage of mankind."⁵⁵ Thus, when a list of subjects and issues to be submitted to the Conference was prepared and distributed by some coastal states,⁵⁶ the landlocked states refused to adopt it.⁵⁷ The rejection of this list was attributed, among other reasons, to the fact that it "seemed to exclude land-locked countries from participation in the proposed exclusive economic zone."⁵⁸ Thereafter, a supplementary list was issued by Afghanistan, Austria, Belgium, Bolivia, Czechoslovakia, Hun-

gary, Mali, Nepal, and Zambia.⁵⁹ This list, *inter alia*, sought a redefinition of the EEZ and the inclusion of certain provisions concerning participation of the landlocked and shelflocked countries in the exploitation of natural resources.⁶⁰ Further, it was designed to replace the item concerning “[d]eveloping landlocked countries’ interests in regard to fisheries” contained in the original list⁶¹ with the item, “[r]ights and special interests of the landlocked countries with regard to the living resources of the sea.”⁶² This proposed substitution was not only inclined to include landlocked states without distinction as to economic development but also tended to assert a right with regard to the living resources rather than merely an interest in regard to fisheries. Most of the suggested changes were accommodated in a revised list⁶³ which the landlocked states approved with certain reservations.⁶⁴

Bolivia, perhaps because of being one of only two landlocked states in the Latin American subcontinent—the vanguard of the EEZ movement—was the first to realize the growing momentum of the “sea-rush.” It thus indicated its acceptance of the concept of EEZ as long as it was regional in outlook and scope.⁶⁵ Paraguay, on the other hand, did not seem to support the states which wished to increase their coastal jurisdiction, apparently because those states did not mention any form of compensation for the automatic reduction of the rights of landlocked states by such increase.⁶⁶ In July of 1973, Bolivia submitted the first draft articles relating to landlocked states which, *inter alia*, provided that the “landlocked (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 . . . within the limits of the jurisdictional sea (exclusive economic zone).”⁶⁷ This was not an acceptance of the EEZ in any way; it was intended merely to maintain equal rights and obligations for developing landlocked states and the contiguous developing coastal states in all possible eventualities.

The threat of the possible assimilation of resources by the ultimate extension of jurisdiction by coastal states also prompted Afghanistan, Austria, Belgium, Bolivia, Nepal, and Singapore to submit draft articles on resource jurisdiction of coastal states beyond the territorial sea, which, *inter alia*, provided that “[l]andlocked . . . 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. . . .”⁶⁸

Uganda and Zambia, realizing the growing popularity of the EEZ among coastal states, also suggested the establishment of regional or sub-regional economic zones.⁶⁹ This approach was intended to make the landlocked states equal beneficiaries in any additional area to which the jurisdiction of coastal states might be extended.

Conscious of the fact that they are among the least developed of the developing countries, the developing landlocked states are concerned with getting their interests recognized and included in the new convention on the law of the sea. This concern is voiced in a collective declaration,⁷⁰ with other geographically disadvantaged countries, asserting that

“[a]ll rights which landlocked and other geographically disadvantaged States have with regard to [the exploitation of the resources of the sea and the sea-bed and subsoil thereof beyond the territorial sea] under existing international law shall be maintained.”⁷¹

While endeavoring to maintain the rights of exploitation of the resources beyond the territorial sea under existing international law, the declaration prudently attempts to safeguard these rights under any new regime adjacent to the territorial sea under coastal state jurisdiction: “[w]ith respect to the exercise of jurisdiction over resources in areas adjacent to the territorial sea, the Landlocked States . . . shall have equal rights with other States and without discrimination in the exercise of such jurisdiction. . . .”⁷²

C. *Conditional Acceptance by Landlocked States*

The EEZ concept being popular among the developing coastal states, the developing landlocked states find it difficult to reject it absolutely for fear of being charged with allegations of collusion with highly developed countries.⁷³ They also realize that the establishment of the EEZ is an economic necessity for some coastal states, especially developing ones;⁷⁴ although they do not approve of it, they are willing to accept it on certain conditions. Since this acceptance, according to the landlocked states, would entail a major sacrifice on their part, they demand that their right to participate in the exploration and exploitation of resources in the EEZ should be recognized.⁷⁵ Some landlocked states emphasize that this right should be exercised on the basis of equality and nondiscrimination and that it should extend to all the resources, living and nonliving, in the EEZ.⁷⁶ But while the coastal states agree to grant the landlocked states access to the living resources in the EEZ, they emphatically reject the landlocked states' demand to share the nonliving resources.⁷⁷ The success

or failure to achieve access to both the living and nonliving resources will ultimately depend on the bargaining chips that the landlocked states might hold against the coastal states. Presently, the landlocked states seem to have very few. After trading these chips for more important rights under the new convention, such as an unequivocal right of transit to the sea, the landlocked states might just be left with their demand for access to the living and nonliving resources in the EEZ. Since most EEZ proposals grant landlocked states access to the living resources under stated conditions it might be advisable for them to trade off ultimately their demand for access to the nonliving resources for rights of participation in the exploitation of the living resources in the EEZ.

D. *Framework of the EEZ*

The EEZ is a creation *sui generis*.⁷⁸ Since its concept is new to international law, its adoption by the Conference would constitute a development of the law and not a codification of existing law.⁷⁹ Therefore, the freedoms enjoyed in the EEZ would be different from those subsisting under the present regime of freedom of the high seas.⁸⁰ Similarly, the rights granted under the new arrangement would be different from those presently enjoyed on the high seas. The nature of these rights would depend on the ultimate framework of the EEZ.

Besides the various proposals submitted to the Seabed Committee,⁸¹ several more proposals concerning the EEZ were submitted by various countries at the second session of the Conference.⁸² Compared with only five of the proposals submitted to the Seabed Committee, all such proposals submitted to the Conference contain provisions regarding the position of landlocked states in the EEZ. The Nigerian draft articles which seek "to achieve an equitable balance between the rights and duties of the coastal States and other States,"⁸³ recognize the right of landlocked and geographically disadvantaged states to explore and exploit the living resources of the EEZ of neighboring coastal states, subject to appropriate bilateral or regional arrangements or agreements.⁸⁴ The draft articles by Bulgaria, Byelorussian S.S.R., German Democratic Republic, Poland, Ukrainian S.S.R., and the U.S.S.R. grant landlocked states access to the living resources in the EEZ according to a prescribed order.⁸⁵ They further grant developing landlocked states "the privilege of fishing in the economic zone of a neighbouring coastal State on the basis of equality with the nationals of that State."⁸⁶ The draft articles by the United States grant almost a similar privilege to all the landlocked states.⁸⁷ While limiting the exercise of the privilege to the EEZ of adjoining coastal states, these

articles further require other coastal states in the region to permit nationals of landlocked and other states to fish the surplus allowable catch not utilized by the coastal states concerned.⁸⁸ The draft articles by Bolivia and Paraguay provide for the establishment of regional economic zones by coastal states and neighboring landlocked states.⁸⁹ They declare the resources within these zones to be the common heritage of the region⁹⁰ and establish regional sovereignty⁹¹ over them for the purpose of exploration, exploitation, and conservation thereof. They further provide that all "the States concerned shall participate fully in the regional economic zone and shall be entitled to enjoy the use and benefits of all renewable and non-renewable resources therein, with equal rights and obligations."⁹² The management of the exploration, exploitation, and conservation of the resources in the regional economic zone is proposed to be undertaken by a regional operation,⁹³ in which members of the regional economic zone, whether coastal or landlocked states, shall be equitably and fairly represented.⁹⁴ The Eighteen Power draft articles acknowledge the right of developing landlocked and other geographically disadvantaged states to exploit the living resources of the EEZ of neighboring states.⁹⁵ Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand, and Norway committed themselves to producing draft articles recognizing the requirement for equitable rights of access by developing landlocked and geographically disadvantaged states to the living resources of the economic zones of neighboring countries.⁹⁶ The working paper by Nicaragua merely provided that the noncoastal and other geographically disadvantaged states would benefit from the compensatory provisions of the new convention on the law of the sea.⁹⁷

All the proposals regarding the EEZ submitted either to the Seabed Committee or to the Conference may be categorized broadly as representing five different approaches:⁹⁸

(1) *Territorialist Approach*. This approach, advocated by some Latin and Central American states, envisages a 200-mile zone in which the coastal states would have almost the same rights as now exist within the territorial seas. Ecuador, Panama, and Peru are its main proponents.⁹⁹ They suggest a "preferential regime" for landlocked states.¹⁰⁰

(2) *Exclusive Resource Zone Approach*. Advocated by the developing coastal states mainly from Asia and Africa, this most widely accepted approach prescribes a twelve-mile territorial sea limit and a 12-200 mile resource zone over which the coastal states would have exclusive and sovereign rights. Specifically, this approach allows landlocked states to

exploit the living resources of the EEZ subject to bilateral, regional, or subregional arrangements with the concerned coastal states.¹⁰¹ Though some landlocked states are willing to accept this approach, they require that landlocked states should have equal and nondiscriminatory rights over all the resources in the EEZ without any kind of restriction.¹⁰²

(3) *Regional Zone Approach*. This approach is reflected in two sets of proposals: one, advocated by landlocked states,¹⁰³ suggesting the establishment of regional economic zones wherein all the states of the region, coastal or landlocked, would share all the resources equally; and the other, advocated by other geographically disadvantaged states,¹⁰⁴ proposing to give geographically disadvantaged states the right to exploit the renewable resources within the economic zones of the region where they are situated.

(4) *Intermediate or Transitory Zone Approach*. This approach is advocated by the Western European states and is reflected mainly in two proposals: one by the Netherlands¹⁰⁵ alone and the other by Belgium, Denmark, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, and the Netherlands.¹⁰⁶ Both emphasize the role of regional or sectoral fisheries organizations juxtaposed with the coastal states' rights in the zone. In this way they contemplate the combination of national and regional jurisdiction. With regard to the rights of landlocked and other geographically disadvantaged states, the former proposal prescribes a formula by which the "sum total of the 'advantages' of States advantaged in the intermediate zone can be shared among the disadvantaged States *pro rata* of the 'disadvantage' of each of them."¹⁰⁷ The latter proposal, while granting a coastal state the right to reserve certain species of fish in its Zone, subjects it to the right of access of other states, including landlocked states.¹⁰⁸

(5) *Preferential Zone Approach*. This approach is mainly advocated by distant-water fishing states like Japan, the USSR, and the United States. Initially, Japan and the USSR proposed that coastal states exercise preferential rights over the living resources adjacent to their territorial seas.¹⁰⁹ Under such an arrangement, landlocked states would have been free, subject of course to certain agreed conservation measures, to exploit the living resources after the exercise of preferential rights by coastal states. Since this approach did not find favor with most of the coastal states, it has been modified by the United States as well as the USSR and its allies.¹¹⁰

The new approach recognizes the sovereign rights of coastal states over the resources in the Zone. However, it calls for a full utilization of

the living resources within the Zone by coastal states; failing this, it requires them to permit other states to fish the surplus allowable catch. The difference between this and the earlier approach lies in the fact that, whereas the former merely granted coastal states preferential rights to exploit the resources adjacent to their territorial seas, the latter bestows upon them preferential rights in the resources of the Zone under their jurisdiction. Hence in the latter case, although the coastal states are obliged to give access to foreign states to the living resources not utilized by them, they are also empowered to require payment of a reasonable fee for such access.

According to this approach, (developing) landlocked states will enjoy the privilege of fishing in the Zones of neighboring coastal states on the basis of equality with nationals of those states. The conditions governing the enjoyment of this privilege shall be worked out by agreement among the parties concerned.¹¹¹

Out of these five approaches, the exclusive zone approach seems to be the most popular. It is thus reflected in the SNT:

[i]n an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has . . . sovereign rights [¹¹²] for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the bed and subsoil and the superjacent waters . . . ¹¹³

This provision, it should be noted, grants the coastal states sovereign rights in the resources of the Zone and not over the Zone itself. Furthermore, the sovereign rights so granted are only exercisable for certain purposes. The SNT further provides that in "exercising its rights . . . the coastal State shall have due regard to the rights and duties of other States."¹¹⁴ What then are the rights and duties proposed for landlocked states regarding fishing in the EEZ?

IV. FISHING RIGHTS IN THE EXCLUSIVE ECONOMIC ZONE

A. *Existing or Bestowed Right?*

As indicated earlier, the landlocked states are now willing to accept the EEZ if they are allowed to participate in the exploration and exploita-

tion of, *inter alia*, the living resources therein. To avoid the feeling of being paternalized by the coastal states, the landlocked states assert this claim as a matter of right¹¹⁵ on the following grounds:

- (1) The 1958 Geneva Convention on the High Seas recognizes equal freedom of fishing on the high seas by both coastal and noncoastal states.¹¹⁶
- (2) The high seas are *res communis* and, therefore, no part thereof can be appropriated unilaterally without compensation.¹¹⁷
- (3) The EEZ would form part of what is now the high seas¹¹⁸ — an area declared by the international community to be “common heritage of mankind.”¹¹⁹

Although the 1958 Geneva Convention on the High Seas is not universally applicable, the fact of equal freedom of fishing on the high seas by both coastal and noncoastal states cannot be denied under traditional principles of international law. The assertion that the high seas are *res communis* (or even *res nullius*) is, however, open to question.¹²⁰ The third assertion does not hold much strength either; as stated by the Tanzanian delegate,

the 200 miles of economic zone was intended to replace the legal continental shelf and the concept of fishery zones. No opponents of the concept could honestly accuse its proponents of draining the common heritage with regard to living resources, for they themselves had refused to include them in that heritage.”¹²¹

In characterizing the high seas as the common heritage of mankind, some landlocked states seem to be depending on the Principles Declaration.¹²² This declaration, considered to be binding,¹²³ merely applies to the seabed, the ocean floor, the subsoil thereof, and the resources therein. Consequently, fisheries are excluded from the common heritage of mankind. Further, the declaration fails to define the outer limits of national jurisdiction beyond which the area and its resources are declared to be the common heritage of mankind. Thus, it would not only be fallacious to assume that the fisheries in the high seas are the common heritage of mankind, but it would also seem premature to state that the EEZ would be established in what is now part of the high seas without having determined the limit of the territorial sea.

Presently, territorial sea claims by various countries vary.¹²⁴ Assuming that all these claims are valid under international law, the high seas for different states would correspondingly depend upon the varying limits of their territorial seas. Then, logically, the fishing rights of landlocked states would also be subject to these limits. Now that the territorial sea is proposed to be delimited to a maximum of twelve miles with an EEZ extending up to a maximum of 200 miles, it would appear that not all the coastal states would benefit, and those which would, would not benefit alike from the proposed delimitation. For example, those states presently claiming a three-mile territorial sea limit stand to benefit more than those claiming six miles. Correspondingly, while the landlocked states would not lose any fishing rights in the territorial seas of those states presently claiming twelve miles, they would certainly lose some fishing rights by the extension of territorial sea limits of those states presently claiming less than twelve miles. The landlocked states, however, do not seem to disfavor the proposed delimitation of the territorial sea at twelve miles. The adoption of this limit by the Conference is thus expected to be consensual. In such an eventuality, the landlocked states would have relinquished whatever rights they may presently have beyond the territorial sea limits which are less than twelve miles.

Although there appears to be no problem concerning the present fishing rights and their probable relinquishment by landlocked states within the proposed twelve miles territorial sea limit, there is some difficulty in ascertaining such rights beyond that limit. Since the proposed EEZ extends to a maximum of 200 miles (measured from the baseline of the territorial sea), the landlocked states claim that they will lose fishing rights between twelve and two hundred miles and, therefore, demand compensation. Inasmuch as the landlocked states appear to have some fishing rights, it is unclear as to where these rights exist. For example, they do not seem to have any fishing rights beyond twelve miles in certain areas where the territorial sea limits presently claimed by some coastal states extend beyond twelve miles. Therefore it would appear to be difficult for the landlocked states to claim any loss of fishing rights caused by the establishment of an EEZ up to the previous territorial sea limits of these particular coastal states. On the contrary, it seems that it will be such coastal states which will probably end up relinquishing sovereignty for jurisdiction beyond the proposed twelve mile territorial sea limit.

Although these assumptions raise numerous queries regarding the validity of present territorial sea and fishery zone claims, the coastal

states' claim to discretionary authority to fix the width of the territorial sea,¹²⁵ and the effect of protest against such a claim under general principles of international law,¹²⁶ we do not propose to consider them here. This is primarily because of lack of available data concerning protest against various territorial sea claims and secondly, because the questions are merely academic in view of the fact that the EEZ is expected to be established by consensus if at all.¹²⁷ It would be only in case of unilateral claims for EEZs by coastal states (if the Conference fails) that these questions would be pertinent in ascertaining the fishing rights of landlocked states. Furthermore, since the coastal states are willing to allow the landlocked states to participate in the exploitation of living resources, the more important issues are whether the landlocked states will enjoy equal treatment with the coastal states, and whether (and in what form) they will be granted technical and financial assistance in order to develop their fishing industries. In other words, the concern of the landlocked states is not confined merely to insuring the right, but extends far beyond to the nature of the right.

B. *Nature of the Right*

1. POSITION OF LANDLOCKED STATES The landlocked states have come a long way since Bolivia submitted the first draft articles (relating to landlocked countries) to the Seabed Committee in 1973,¹²⁸ primarily seeking the right of participation only for developing landlocked states, in the exploitation of live resources in the EEZ. The distinction between the developed and developing landlocked states has been objected to by the developed landlocked states.¹²⁹ Thus, despite the fact that the Kampala Declaration¹³⁰ also made this distinction, most landlocked states now no longer maintain it.¹³¹

The landlocked states want the right of participation on "an equal and nondiscriminatory basis."¹³² As stated by the delegate of Austria, "[t]he countries involved were not asking for privileges, but for equality and nondiscrimination—a status they believed they were entitled to as a matter of right."¹³³

Besides getting an equal and nondiscriminatory right, the developing landlocked states are also concerned about being able to implement that right. Impoverished both in fishing technology and financial capability, these states (while agreeing not to transfer their right to fish in the EEZ to third states) seek assistance from other states and from international organizations.¹³⁴

The landlocked states also feel that their right in the EEZ should not be subject to any restriction by way of any "bilateral, regional or sub-regional agreements."¹³⁵ Therefore, they emphasize the necessity of providing for a compulsory dispute-settling procedure in the new convention.¹³⁶ Further, they leave the option open for the states within a region or subregion to enter into any arrangement for the establishment of regional or subregional zones.¹³⁷

However, several questions have been raised regarding the concept of regional arrangements.¹³⁸ What is a region? Is a region to be determined on geographical or on political considerations? According to one delegate, region ought to signify "a geographical area."¹³⁹ But what if a country is so situated that, for political reasons, no regional arrangements are possible? As pointed out by the delegate of Byelorussian S.S.R., the regional approach does not "take account of the interests of all landlocked States . . . particularly those which were not able to resolve the fisheries problem on a regional or subregional level."¹⁴⁰ But, despite the criticism against the regional approach, Uganda continues to propose it.¹⁴¹ However, Uganda's partner Zambia seems to have altered her position.¹⁴²

Since the OAU Declaration in general and its paragraph 9 in particular accommodate the interests of the coastal, landlocked, and other geographically disadvantaged states, it has been accepted by a cross-section of these states (unlike other proposals, most of which have been supported either by coastal states or by landlocked and other geographically disadvantaged states).¹⁴³ It is regarded as one practicable way of taking regional problems into account.¹⁴⁴ It reflects an approach toward regional integration and grants participation as a matter of right.¹⁴⁵

2. POSITION OF COASTAL STATES The coastal states are not presently inclined to accept the notion of a regional economic zone. They stress an exclusive character for the Zone,¹⁴⁶ leaving the options open for future regional arrangements.

Though none of the coastal states dispute access to the landlocked states in the EEZ for fishing, they do seem rather divided on the mode of such access. At one end, some Latin and Central American countries suggest that such fishing rights for landlocked states should be preferential in relation to third states.¹⁴⁷ Iran, Uruguay, and Romania further propose that landlocked states should be accorded preferential rights to fish only in certain areas of the EEZ.¹⁴⁸ To a somewhat similar effect, Parkistan proposes that the nationals of landlocked states should be al-

lowed "to participate in the exploitation of the living resources of the zone in an area specified by the coastal State."¹⁴⁹ Nigeria seems to indicate that the African coastal states would allow neighboring landlocked states to exploit the surplus fish stock in the EEZ on a mutually agreed basis.¹⁵⁰ At the other end, however, most coastal states propose to give nationals of landlocked states access to the living resources in the EEZ on an equal basis with nationals of coastal states. While so agreeing, however, the coastal states subject the landlocked states' fishing rights to bilateral, subregional, or regional arrangements.¹⁵¹

A few coastal states emphasize that proposed fishing rights for the landlocked states (in the EEZ) should be exercised only by enterprises, effectively controlled by their nationals and indigenous capital.¹⁵² Further, some coastal states suggest that these rights should in no way be transferred to third states,¹⁵³ for "it would be self-defeating [for a developing coastal state] if [landlocked] States were to be permitted to introduce technologically advanced States or groups of States as partners into the exclusive economic zone of the coastal State on grounds of co-operation in joint ventures."¹⁵⁴ However, Pakistan's proposal¹⁵⁵ offers a compromise in that the "nationals of the developing landlocked State may avail themselves of the benefit of collaboration with the specialised agencies of the United Nations where such collaboration is resorted to by the nationals of the coastal State itself."¹⁵⁶

Lastly, some of the proposals by coastal states refer to developing landlocked states only while granting landlocked states access to the EEZ for the purpose of fishing.¹⁵⁷

3. CURRENT ISSUES AND BASIS OF NEGOTIATIONS Some of the major fishery issues emerging from the varied approaches of the landlocked and coastal states may be summarized as follows:

- a. Should the landlocked states be granted access to the living resources in the EEZ as a matter of right or privilege?
- b. Should such access be granted equally to both developed and developing landlocked states?
- c. Should such access be granted on the basis of equality with the coastal states?
- d. Where should such access be granted?
- e. Should such access be automatic, or should it be subject to bilateral, subregional, or regional agreements with coastal states?

- f. Should the landlocked states be entitled to obtain technical and financial assistance from third states and/or international organizations?
- g. Should there be a compulsory dispute-settling procedure if a coastal state does not fulfill its obligation under the Convention?

In order to narrow down the negotiations on all these issues—and a multitude of subsidiary issues—in the next session of the Conference in 1976, the various proposals, compiled in the document *Main Trends*,¹⁵⁸ have now been reflected in the SNT. Thus,

[I]and-locked States may . . . participate in the exploitation of the living resources of the exclusive economic zone of adjoining coastal States.¹⁵⁹

More specifically,

[I]and-locked States shall have the right to participate in the exploitation of the living resources¹⁶⁰ 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, subregional or regional agreements. . . .¹⁶¹

Further, in connection with the transferability of the right, the SNT provides that:

[r]ights . . . to exploit living resources cannot without the express consent of the coastal State be transferred to third States or their nationals by lease or license, by establishing joint collaboration ventures or by any other arrangements.¹⁶²

4. VARIOUS PROPOSALS: EQUITY AND ENFORCEABILITY

- a. Should the landlocked states be granted access to the living resources in the EEZ as a matter of right or privilege?

One need merely consider the different connotations (and their legal implications) accorded the words right and privilege to understand the positions of the landlocked and coastal states.¹⁶³ A right, taken in its concrete sense, means “a power, privilege, faculty, demand inherent in one person and incident upon another.”¹⁶⁴ Although a right may be restricted or qualified, it nonetheless gives the holder an interest or title in the prop-

erty over which he has the right. Thus, it has the force of claim in that property. A privilege, on the other hand, merely connotes a benefit or advantage and even when considered in its absolute sense does not give the holder thereof any title in the property over which the privilege extends. Consequently, even if the grant of a privilege is made obligatory, it is doubtful whether there could be a perfect claim for it in case of default.

The SNT grants landlocked states access to the living resources in the EEZ as a matter of right. But since this right is restrictive and conditional upon agreement with the coastal states, several problems¹⁶⁵ in its enforcement are inevitable.

- b. Should such access be granted equally to both developed and developing landlocked states?

This question involves a determination of the expediency of laying down any criteria for eligibility of landlocked states to participate in the exploitation of living resources in the EEZ. Some¹⁶⁶ suggest that developing landlocked states,¹⁶⁷ among other geographically disadvantaged countries, should have the right to fish in the region where they are situated, for the purpose of "fostering the development of their fishing industry and satisfying the nutritional needs of [their] populations."¹⁶⁸ Not only do these proposals exclude developed landlocked states, they also overlook some developing landlocked states such as Chad, Mali, and Uganda which not only satisfy (or at least have the fishery resources to do so) the nutritional needs of their populations with fish caught in their inland waters, but also export a substantial amount of the surplus stock to their neighboring countries.¹⁶⁹ As is evident from annex I, there is some inland fishing carried on in most landlocked states. To the extent that the developing landlocked states satisfy their nutritional needs with inland fishing, does it follow that a distinction will be made between developing landlocked states which fish in inland waters and those which do not? If so, will the developing landlocked states which have not utilized or have partially utilized inland fishery resources be obliged to utilize them to the maximum before fishing in the EEZs of coastal states? These questions highlight the unavoidable complexities if any qualifications are attached to the fishing rights of landlocked states in the EEZ under the new convention. Further, any proposal imposing a qualification is unlikely to be accepted by the landlocked states.

The developed landlocked states even oppose the distinction between developing and developed landlocked states:¹⁷⁰ "[t]hat the distinction was unjustified was evident from the fact that such a differentiation was not

made in relation to coastal States. Developed land-locked . . . States should enjoy, in relation to their developed coastal neighbours, the same rights as developing land-locked . . . States vis-à-vis developing coastal States."¹⁷¹ Similarly, it was pointed out by the Swedish delegate that "since the land-locked . . . developed countries had only developed countries as neighbours, the different treatment of the rights of neighbouring disadvantaged countries would result in giving the developed coastal States more exclusive fishing rights in their economic zones."¹⁷²

Anyway, would it be equitable if a developing landlocked state like Zambia (rich in mineral resources) and Mali (which exports fish) are granted fishing rights in the EEZ, while a developed landlocked state like Switzerland (with no mineral resources and heavily dependent on fish to feed its population) is precluded from the enjoyment of such a right? The SNT, therefore, makes no distinction regarding the stage of development of landlocked states in laying down rules for their participation in the exploitation of living resources in the EEZ. Instead, it provides that "[d]eveloped land-locked States shall . . . be entitled to exercise their rights only within the exclusive economic zones of neighbouring developed coastal States."¹⁷³ Since the developing landlocked states are the least developed among the developing states presently, such an eventuality seems only remotely possible.

- c. Should such access be granted on the basis of equality with the coastal states?

Although a majority of the proposals by both coastal and landlocked states contain provisions ensuring the landlocked states access to the living resources in the EEZ on the basis of equality, the SNT merely grants the right to participate on "an equitable basis, taking into account the relevant economic and geographic circumstances of all the States concerned." Could this be interpreted in the light of the Marxian principal of justice to mean from each coastal state according to its capacity, to each landlocked state according to its need? This distinctive approach by the SNT is perhaps justifiable in light of the ensuing facts.

- d. Where should such access be granted?

This question concerns the determination of the EEZs in which landlocked states should be granted fishing rights. Most draft articles provide for participation by the landlocked states in the exploitation of living resources in the EEZ of neighboring coastal states. The expression neighboring coastal state not only refers to states adjacent to each other, but

also includes states of a region situated within reasonable proximity to a landlocked or geographically disadvantaged state.¹⁷⁴ Perhaps due to ambiguity in the meaning of neighboring, some draft articles use a more specific term adjoining neighboring coastal state or merely adjoining coastal state. In keeping with this preference, the SNT also provides that landlocked states shall have the right to exploit the living resources in the EEZs of adjoining coastal states.

A perusal of the list¹⁷⁵ of coastal states adjoining landlocked states indicates that not all the landlocked states have adjoining coastal states. For example, Liechtenstein is surrounded by two other landlocked states, Switzerland and Austria. Thus, the adjoining coastal state test of the SNT is inapplicable universally. Further, while some landlocked states have only one or two adjoining coastal state(s), others have as many as four or five.

In light of this evidence, if the SNT had provided for equal rights, this would have naturally meant that a landlocked state having five adjoining coastal states would enjoy equal rights with those states in all five zones. In a converse situation where one or more landlocked states have one adjoining coastal state¹⁷⁶ all those landlocked states would enjoy equal rights of participation vis-à-vis each other. Consequently, while a coastal state's access would be limited to the living resources in its EEZ, a landlocked state having five adjoining coastal states would have equal access to the living resources in all five EEZs. Only a moment's reflection is needed to determine who would benefit most from this construction. However, figures can be misleading in some instances; furthermore, with the present level of fishing technology that the landlocked states have, it is doubtful that they will be able to exploit the living resources in several zones simultaneously.

Would it then be justifiable for a landlocked state having five adjoining coastal states to decide to exhaust its fishing potential in the EEZ of one coastal state only, to the exclusion of the others? Conversely, would it be possible for such a coastal state to require the landlocked state to divide its potential equally among its five adjoining coastal states? This hypothesis does not reflect a mere possibility. It is quite probable that, among other things, distances to the sea and infrastructure limitations for most landlocked states, especially developing ones, would be a determining factor in choosing between different EEZs. Although China and the USSR have the maximum number of adjoining landlocked states, it is highly unlikely that all such states would want access to the living resources in the EEZ of either China or the USSR. For example, it would be more

convenient and much more practical for Afghanistan to have access to the EEZs of Iran and Pakistan rather than those of China and the U.S.S.R.

Inasmuch as the level of gain will be different for various landlocked states, the corresponding losses will also be dissimilar for coastal states. While a few coastal states have as many as five landlocked states, some have none. The United States of America, which would be the biggest beneficiary of the establishment of an EEZ regime,¹⁷⁷ does not have any landlocked state adjoining it. On the other hand, it seems that a coastal state like Zaire, perhaps the most disadvantaged of the geographically disadvantaged states,¹⁷⁸ would have to share the living resources of its EEZ with five adjoining landlocked states.¹⁷⁹ Thus, conceivably it is for situations where a coastal state is or would become disadvantaged, that the SNT has deviated from the popular support for providing equal status to landlocked states regarding fishing in the EEZ. In the final analysis, would it be equitable to require a state which is not geographically disadvantaged to share the living resources in its EEZs with even a single adjoining landlocked state, while many others nearby enjoy the exclusive benefits of their zones?

To answer this, one has to consider the benefits that a coastal state might obtain from the living resources in its EEZ as proposed in the SNT. While article 45(1)(a), *inter alia*, grants a coastal state sovereign rights for the purpose of exploiting the living resources within its EEZ, Art. 50 further provides that “[t]he coastal State shall determine the allowable catch of the living resources [therein].” In determining the allowable catch, the coastal state is bound by article 51(1) to promote the “objective of optimum utilization.” Article 51(2) grants the coastal state the right to determine its capacity to harvest the living resources in its EEZ but further provides that “[w]here the coastal State does not have the capacity to harvest the entire allowable catch, it shall . . . give other States access to the surplus of the allowable catch.” In granting other states access to the fisheries in its EEZ, under this article, the coastal state may license foreign fishermen, fishing vessels, and equipment and require “payment of fees and other forms of remuneration.”¹⁸⁰ The developing coastal states which presently lack fishing technology may not be able to utilize the living resources to the required optimum level. The above provision may thus be important for earning revenue for these states. It is, however, subject to certain limitations; in granting access to the states under article 51, the coastal state is required to take into account several factors which, *inter alia*, include the fishing rights of landlocked states.¹⁸¹ This means that those coastal states which have adjoining landlocked states would only

be able to earn revenue from licensing foreign fishing activity in its EEZ after deducting the landlocked states' share in it. Other coastal states which do not have any adjoining landlocked state would enjoy the benefits of the revenues derived from such licensing without any limitations.

Since the Conference is based on the notion of equity, should not the coastal states (which will share the living resources of their Zones with landlocked states) be allowed to have a proportionately wider economic zone than those coastal states which do not have any adjoining landlocked states? After all, there is no need to base the notion of equity on uniformity.

- e. Should such access be automatic or should it be subject to bilateral, subregional, or regional arrangements with coastal states?

Reprehensible though it may be for the landlocked states, there appears to be no practical substitute for bilateral, subregional, or regional arrangements under the presently contemplated framework of the EEZ. The automatic access approach by landlocked states, as foreshadowed earlier, ignores the complexities involved in the exercise of fishing rights in the EEZ. Since the landlocked states' fishermen will be based at the ports of coastal states, several problems are bound to arise unless express agreement has been reached concerning them. For example, would the landlocked state's fishermen be able to sell all or any part of their catch in the coastal state's market? What if the coastal state's fishing industry opposes domestic competition by foreign fishermen? Would the landlocked state's fishermen have to import all of their catch to their own country? Would processing plants be permitted extraterritorially, or would the landlocked state be required to have its catch processed in the coastal state's plants? Because of these illustrative complexities, some writers have suggested that "[i]t might be more logical, perhaps, to permit the landlocked State to invest in joint stock companies, or to form joint ventures with coastal State entities."¹⁸² This, in turn, raises another fundamental question as to whether the right to fish or permission to invest would be granted to nationals of landlocked states directly or only to government enterprises of those states?

The diverse, complex, and open-ended nature of these questions is not susceptible to an exhaustive and universally applicable formulation in the new convention covering all aspects of fishing rights of landlocked states. Thus, inevitably, their fishing rights in the EEZ are subject to bilateral, subregional, or regional agreements with the coastal states concerned.

Being dependent on the coastal states, it would be important for the landlocked states that access to the living resources be granted to them as

a matter of right rather than of privilege. What would be equally important is that they be able to implement that right effectively. This would indeed depend on the successful outcome of the negotiations in favor of landlocked states on the sixth and seventh issues.

f. Should the landlocked states be entitled to obtain technical and financial assistance from third states and/or international organizations?

Most landlocked states lack fishing technology at present; indeed, it will be some time before they acquire the capability to utilize the fishing rights which the new convention proposes to grant them.

The observation by the Tanzanian delegate is noteworthy:

Tanzania is a coastal State and its people have been fishing the shores for centuries. Yet they hardly venture beyond the twelve miles of territorial sea. How can one genuinely expect Burundi to have an interest in fishing beyond twelve miles [off] the coast of Tanzania or Kenya? They are not used to the sea, most of them have not seen it and they do not have the resources for a massive fishing programme . . . If Burundi is to fish in the Indian Ocean then she must start in our territorial waters. . . .¹⁸³

While the landlocked states would be restrained from transferring their rights unilaterally, the coastal states would be able to license foreign fishermen and earn revenue therefrom. Thus, despite the major effort of the landlocked states and some important tradeoffs that they might have to make to get fishing rights, it seems that they will not benefit from them, at least in the immediate future. The landlocked states, in accordance with the SNT, are only allowed to transfer their rights with the express consent of the coastal state concerned. What if the coastal state refuses consent? In a system where fishing rights of the landlocked states would be self-operative, the restriction on unilateral transfers is understandable, but where the rights are already subject to agreement, the necessity for such a provision is questionable. The only possible justification would be to cover situations where agreements between coastal and landlocked states for the exercise of the latter's fishing rights do not specify the allowable catch. Such situations are highly improbable since a coastal state would not only be required to determine the allowable catch of the living resources in its EEZ, but also give other states access to the surplus allowable catch in light of its own harvesting capacity and the fishing rights of landlocked states. The mandatory obligation of the coastal state to give third states access to the surplus of the allowable catch naturally would require a

prior determination of the landlocked state's share. This is not to suggest that the landlocked state would be competent to make such a determination alone; its share would be subject to mutual determination by both the landlocked and the coastal state concerned. Thus, as long as a specific share is fixed, it seems illogical to restrain the landlocked state's right to utilize this share in any particular way. Although the landlocked states would be entitled to this share as a matter of right and thus have the force of claim over it, they would not enjoy the same status regarding transfer of this right. The draft provision in the SNT¹⁸⁴ concerning transfer of fishing rights by landlocked states does not in any way obligate the coastal state to give its express consent. In a system in which landlocked states would have self-operative fishing rights, they seem willing to accept nontransferable rights. Under the structure envisaged in the SNT, the desire to transfer their fishing rights to third parties would become as important to the landlocked states as their insistence on being allowed to obtain technical and financial assistance from third states and appropriate international organizations for enabling them to develop viable industries of their own. The SNT contains general provisions regarding the development and transfer of technology which requires states to endeavor to

establish programmes of technical cooperation for the effective transfer of all kinds of marine technology to the . . . developing landlocked States which, due to their geographically disadvantaged situation, have not been able to either establish or develop their own technological capacity in marine science and in the exploration and exploitation of the marine resources, and to develop the infrastructure of such technology.¹⁸⁵

For obvious reasons, this is by far the most important provision for developing landlocked states. Developing coastal states, which themselves need to acquire fishing technology, would find it difficult to block the transfer of technology to developing landlocked states.

g. Should there be a compulsory dispute-settling procedure if a coastal state does not fulfill its obligation under the Convention?

The SNT¹⁸⁶ provides for a special dispute-settling procedure, both compulsory¹⁸⁷ and binding,¹⁸⁸ concerning fisheries. Insofar as the proposed fishing rights of landlocked states are not self-operative, this would be an essential safeguard, because a right without a remedy would be meaningless.

C. CONCLUSION

Speaking about the proposals submitted by the coastal states, a writer has commented that the "mélange of countries in support of greater recognition of the needs of land-locked states could be construed as newly-developed feelings of altruism among nations and the genesis of true international unity."¹⁸⁹ However, the preservation of that unity ultimately would depend on the practice by coastal states of what they now preach. As much as one may feel encouraged by the altruistic trend at the Conference, one cannot ignore totally the self-indulgent behavior of nation-states in international relations generally. The retreat from the promise to give landlocked states an "entitlement to fish" to the mere proposal to grant them the "privilege to fish" by some of the African coastal states is an illustration of this sad reality.¹⁹⁰ Based on this realization and the legal consequences that flow from a right as opposed to a privilege, it is essential that the landlocked states be granted access to the living resources in the EEZ as a matter of right. As long as the nation-state remains the subject of international relations, it would be difficult to grant this right directly to the nationals of landlocked states.

There seems to be no geographic reason or economic justification for drawing a distinction between developing and developed landlocked states in granting fishing rights under the new convention. Further, such rights should be made exercisable on an equitable basis with the coastal states in a particular region or subregion. In the absence of a regional system, it is difficult to envisage joint management over the fisheries by both landlocked and coastal states. In a system in which the coastal state would have sole management, it would not be practical to grant landlocked states self-operative rights. However, it might be expedient to bind the coastal states with a positive obligation to enter into bilateral, subregional, or regional arrangements. Further, to insure against any default in this regard, it would be essential to provide for a compulsory and binding dispute-settling mechanism.

It must be reemphasized that since the developing landlocked states lack fishing technology, it would be absolutely essential for them to be entitled to transfer their rights to foreign fishermen, at least currently, as well as to be able to obtain technical and financial assistance from third states and/or international organizations. Therefore, the following alterations and additions to the SNT are suggested:

Article 57(1) should be amended as follows:

1. Landlocked states shall have the right to participate in the exploitation of the living resources *in the exclusive economic zones of coastal states in the subregion or region where such states are situated* 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, subregional or regional agreements *or arrangements*.

The following paragraphs 2 and 3 should be added to article 57, and the present paragraph 2 should be renumbered as paragraph 4.

2. The states of the region shall cooperate to the fullest extent to enable the landlocked states to enjoy fully the rights granted to them in paragraph 1 hereof.
3. To be effective, the rights granted to the landlocked states under paragraph 1 hereof shall be complemented by the necessary right of transit and free port facilities.

The proposed text of Art. 59 should be replaced with the following:

59. The developing landlocked states may obtain technical or financial assistance from third states, and appropriate international organizations, for the purpose of enabling themselves to develop viable industries of their own.

These conclusions are premised on the assumption that the resources in the EEZ would be under the sovereign and exclusive jurisdiction and control of the coastal states. One need hardly emphasize the grant of transit rights and free port facilities to complement the fishing rights of landlocked states.

The best and perhaps the most practical solution to all these issues would naturally be found in a regional approach.¹⁹¹ Perhaps the EEZ concept could be divided separately for (1) mineral resources and (2) living resources. While the former could be retained in its present form, the latter could take the form of a regional fishery zone. But since most of the coastal states might not be ready to accept even such a modified arrangement at present, the establishment of a regional structure is not recommended. In the ultimate analysis, the success of any regional system would depend on its natural evolution rather than it being imposed by a

multilateral convention. A regional system may take considerable time to evolve, but it will be the only effective remedy against the "accidents of geography and, in some cases, the injustices of history"¹⁹² endured by landlocked states.

NOTES

¹The traditional modes of acquisition of territory are: accretion, annexation, cession, historic rights, occupation, and prescription. See, e.g., 1 D. P. O'CONNELL, *INTERNATIONAL LAW* 408-40 (2d ed. 1970).

²This concern was perhaps the result of the statement by the representative of Malta who in 1967 brought to the attention of the General Assembly the fact of rapid progress in the development of new techniques by technologically advanced countries which could, *inter alia*, result in the exploitation and depletion of the sea resources to the advantage of those countries. See U.N. Doc. A/6695 (18 Aug., 1967).

³Para. 2, Montevideo Declaration on the Law of the Sea, reproduced in 1 R. CHURCHILL, S. LAY, M. NORDQUIST, *NEW DIRECTIONS IN THE LAW OF THE SEA* 235, 236 (1973) hereinafter referred to as ["CHURCHILL"]. Though this was the first declaration of its kind, its substance is not new. Compare it with the 1952 [and] 1954 Agreements between Chile, Ecuador, and Peru on the Exploitation and Conservation of the Maritime Resources of the South Pacific, *id.* at 231 and 233.

⁴Lima Declaration, *id.* at 237. The effect of this principle was toned down by using the words "[t]he right of the coastal State to establish the limits of its maritime sovereignty or jurisdiction *in accordance with reasonable criteria . . .*" (para. 2) rather than just "sovereignty and jurisdiction" used in the earlier declaration. The text of this declaration was submitted to the Chairman of the Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction (the "Seabed Committee"). See U.N. Doc. A/AC. 138/28 (14 Aug., 1970). See generally the statement by the Peruvian delegate on the position of the Latin American states on the law of the sea, U.N. Doc. A/AC. 138/SR. 29-44 (13 Nov., 1970), at 160.

⁵Landlocked state means a state which has no seacoast. Art. 108 (1)(a), Informal Single Negotiating Text, U.N. Doc. A/CONF. 62/WP.8/Part II (7 May, 1975). (The Informal Single Negotiating Text consists of four parts. Hereinafter, it will be referred to as the SNT; this abbreviation will allude to Part II unless otherwise indicated.) This is similar to the definition contained in art. 1(a) of the Convention on Transit Trade of Landlocked States, U.N. Doc. TD/Transit/9; T.I.A.S. No. 6592. Although three of the four Conventions adopted at the first United Nations Conference on the Law of the Sea in 1958 recognized several rights of the landlocked states (See arts. 2, 3 & 4, Convention on the High Seas, 450 U.N.T.S. 82; art. 14, Convention on the Territorial Sea and the Contiguous Zone, 516 U.N.T.S. 205; art. 1, Convention on Fishing and Conservation of the Living Resources of the High Seas, 559 U.N.T.S. 285.), these conventions obviated the definition of landlocked states by referring specifically to these as "States having no sea-coast," "non-coastal States" or generally using the term "all States." Approximately one-fifth of the states of the world are landlocked. These states constitute about eight and a half percent of the land area and four percent of the global population:

Africa: Botswana, Burundi, Central African Republic, Chad, Lesotho, Malawi, Mali, Niger, Rhodesia, Rwanda, Swaziland, Uganda, Upper Volta, and Zambia

Asia: Afghanistan, Bhutan, Laos, Mongolia, and Nepal

Europe: Austria, Byelorussian S.S.R., Czechoslovakia, Hungary, Liechtenstein, Luxembourg, San Marino, Switzerland, and Vatican City

South America: Bolivia and Paraguay

See M.I. GLASSNER, ACCESS TO THE SEA FOR DEVELOPING LAND-LOCKED STATES I-13 (1970).

⁶Childs, "The Interests of Land-locked States in Law of the Seas," 9 SAN DIEGO L. REV. 701, 702 (1972).

⁷Ibler, "The Land- and Shelf-Locked States and the Development of the Law of the Sea," 4 ANNALES D'ETUDES INTERNATIONALES 55, 56 (1973) has pointed out that although the landlocked states have similar interests it does not necessarily mean that they form a single and compact group with common political views. On the issue of fishing rights, however, these states have more or less similar views. For the purpose of this paper, therefore, they have been treated as a homogeneous group. Their interests in fisheries have also been identified with those of shelf-locked and other geographically disadvantaged states.

⁸*E.g.*, not a dissenting vote was cast against it at the first Conference on the Law of the Sea held in Geneva in 1958. 4 M. WHITEMAN, DIGEST OF INTERNATIONAL LAW 551 (1965).

⁹*Supra* note 5.

¹⁰*Id.* art. 2.

¹¹*Id.* preamble.

¹²Franck *et al.*, "The New Poor: Land-locked, Shelf-locked and Other Geographically Disadvantaged States," 7 N.Y.U.J. INT'L L. & POL. 33, 40 (1974).

¹³*Supra* note 5.

¹⁴*Id.* art. 1(1).

¹⁵*Id.* art. 1(2).

¹⁶*Id.* art. 6(1).

¹⁷*Id.* art. 6(3).

¹⁸SNT (Pt. I). This draft convention originated as a result of the statement to the United Nations General Assembly by the representative of Malta, *supra* note 2, and the consequent General Assembly adoption of the "Declaration of Principles" which stated that "the Sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction as well as the resources of the area, are the common heritage of mankind," G.A. Res. 2749 (XXV), 25 U.N. GAOR Supp. 28, at 24, U.N. Doc. A/8028 (1970). The Declaration of Principles does not define the word resources, but it is obvious that the reference to the "Sea-bed and Ocean floor, and the subsoil" excludes fish from the purview of the "common heritage of mankind." See generally V. Govindraj, "Landlocked States—Their Right to the Resources of the Sea-bed and the Ocean Floor," 14 INDIAN J. INT'L L. 409, 415 (1974). *But see* Tin, "International Fishery Regimes and the Interests of Developing States" in THE LAW OF THE SEA-NEEDS AND INTERESTS OF DEVELOPING COUNTRIES 134, 139 (L.M. Alexander ed. 1973).

¹⁹See arts. 20(1), 22(1), 1(ii), and 2(1), SNT (Pt. I).

²⁰Art. 1(iii) *id.*

²¹For corresponding provisions to art. 2(2) of the Convention on the High Seas and art. 1(1) of the Convention on Fishing and Conservation of the Living Resources of the High Seas, see arts. 75 1(e) and 103 respectively of the SNT, *supra* note 5.

²²Compare last paragraph of art. 2 of the Convention on the High Seas, and arts. 1(2) and 4(1) of the Convention on Fishing and Conservation of the Living Resources of the High Seas with arts. 75(2), [and] 104 and 105 respectively of the SNT, *id.*

²³Art. 52(2) SNT; cf. art. 6(3) of the Convention on Fishing and Conservation of the Living Resources of the High Seas, *id.*

²⁴Art. 53.2, SNT, *id.*; the migratory species are listed in the annex to the SNT and are as follows: Albacore Tuna, Bluefin Tunas, Bugeye Tuna, Skipjack Tunas, Yellowfin Tuna, Blackfin Tuna, Little Tuna, Frigate Mackerels, Pomfrets, Marlin, Sailfishes, Swordfish, Sauries, Dolphin (fish), Oceanic Sharks, Cetaceans (whales and porpoises).

²⁵*Id.* art. 54.3(d).

²⁶Art. 1, *supra* note 5. The current definition contained in Art. 73 of the SNT also excludes the "exclusive economic zone" and the "archipelagic waters of an archipelagic state" from the area of the high seas.

²⁷*Supra* note 5.

²⁸*Id.* art. 1.

²⁹*See, e.g.*, Jessup, "The United Nations Conference on the Law of the Sea," 59 COLUM. L. REV. 234, 244 (1959).

³⁰For a survey of these claims and practices, see U.S. Dept. of State, Office of the Geographer, National Claims to Maritime Jurisdictions (1972). See also U.N. Doc. A/AC.138/50 (6 Aug., 1971).

³¹Due to the obvious reason of a coastal state's sovereignty over its territorial sea, the landlocked states cannot and have not ever claimed fishing rights therein.

³²See text following note 124 *infra*.

³³For a detailed analysis of the EEZ concept, see D.M. Johnston & E. Gold, *The Economic Zone in the Law of the Sea: Survey, Analysis and Appraisal of Current Trends* (Law of the Sea Institute, University of Rhode Island, Occasional Paper #17 (June, 1973)). For a more recent study, see Alexander and Hodgson, "The Impact of the 200-Mile Economic Zone on the Law of the Sea," 12 SAN DIEGO L. REV. 569 (1975); see also Brown, "Maritime Zones: A Survey of Claims," in 3 CHURCHILL 157, 167 *et seq.* The EEZ concept is not absolutely new. It is somewhat similar to the contiguous zone concept provided in art. 24 of the Convention on the Territorial Sea and Contiguous Zone, *supra* note 5. See Pollard, "The Exclusive Economic Zone—The Elusive Consensus," 12 SAN DIEGO L. REV. 600 (1975).

³⁴See U.N. Doc. A/AC.138/SR.61-67 (23 Nov., 1971), at 41.

³⁵*Id.* at 42.

³⁶*Id.* at 43. As an example, he suggested that "part of the resources extracted from the areas of patrimonial sea belonging to the other States and territories of the continent in question [could] be paid into a fund for the development of the land-locked countries in the same continent."

³⁷Asian-African Legal Consultative Committee, Report of the Thirteenth Session held in Lagos from 18 to 25 January, 1972, at 369-74 (hereinafter referred to as *Asian-African Report*).

³⁸*Id.* at 210; see generally U.N. Doc. A/AC.138/SC.II/SR.4-23 (2 Dec., 1971) at 52-56.

³⁹See *Asian-African Report* 213. Later addressing Sub-Committee II of the Sea-bed Committee, the delegate of Kenya reassured the landlocked states by stating

that "[t]hose [states] proposing an [exclusive economic zone] were prepared to enter into regional arrangements—entailing preferential granting of licenses and jointly undertaken activities—to alleviate the disadvantages imposed on certain countries by geography. . . ." U.N. Doc. A/AC.138/SC.11/SR.24-32 (29 Jun., 1972), at 68.

⁴⁰See Declaration of Santo Domingo, U.N. Doc. A/AC.138/80 (26 July, 1972), reproduced in the Report of the Committee on the Peaceful uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction, 27 U.N. GAOR Supp. 21, at 70, U.N. Doc. A/8721 (1972) ("27 Seabed Com. Rep."); 11 ILM 892; 1 CHURCHILL 247. This declaration was the result of a conference which was attended by fifteen Caribbean countries and several observers from Latin American states. Out of all the countries represented ten (Colombia, Costa Rica, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Dominican Republic, Trinidad and Tobago, and Venezuela) voted in favor while the remaining five abstained (Barbados, El Salvador, Guyana, Jamaica, and Panama). The Santo Domingo Declaration was later refined into a treaty text by Colombia, Mexico, and Venezuela: draft articles, U.N. Doc. A/AC.138/SC.II/L.21, reproduced in the Report of the Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction, 28 U.N. GAOR Supp. 21 (vol. 3), at 19, U.N. Doc. A/8721 (1973) (This Report is in six volumes; these shall hereinafter be cited as "28 Seabed Com. Rep. 1, 2, 3, 4, 5, and 6."); see Stevenson and Oxman, "The Preparations for the Law of the Sea Conference," 68 AM. J INT'L L. 1, 15 (1974). For a brief study of the patrimonial sea concept, see Castañeda, "The Concept of Patrimonial Sea in International Law." 2 INDIAN J. INT'L L. 535 (1972). Though both the EEZ and the patrimonial sea concepts envisage a twelve mile territorial sea and exclusive resource zone extending to 200 miles, there is a slight difference between them. While the former limits the coastal state's jurisdiction to 200 miles for all purposes, the latter contemplates the possibility of extending the jurisdiction to the edge of the continental margin, thus making it possible for the coastal state's jurisdiction to extend beyond 200 miles.

⁴¹See Conclusions in the General Report of the African States Regional Seminar on the Law of the Sea, held in Yaoundé from 20 to 30 June, 1972, U.N. Doc. A/AC.138/79 (21 July, 1972), reproduced in 27 Seabed Com. Rep. 73-76; 1 CHURCHILL 250. This was only a seminar and not an intergovernmental conference. It made several recommendations, including the following:

. . . .

(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. To be effective, the rights of land-locked States, shall be complemented by the right of transit. These rights shall be embodied in multilateral or regional or bilateral agreements.

. . . .

Later the Organisation of African Unity ("OAU") which represents the majority of the landlocked states of the world "[r]ecognizing that Africa has many disadvantaged States" and "[n]oting the recent trends in the extension of coastal States' jurisdictions over the area adjacent to their coasts" declared, *inter alia*, "that the land-locked . . . countries are entitled to share in the exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States . . . under such regional or bilateral agreements as may be worked out," (para. 9) ("OAU Declaration"), U.N. Doc. A/AC.138/89 (2 July, 1973); reissued as U.N. Doc. A/CONF.62/23 (19 July, 1974) reproduced in 3 *Third United Nations Conference on the Law of the Sea, Official Records* 63 (This is a four volume set prepared by the U.N. It is hereinafter cited as "1, 2, 3, 4 Off. Rec."). According to Stevenson & Oxman, *supra* note 40, the OAU Declaration was refined into a treaty text by Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia, Madagascar, Mauritius, Senegal, Sierra Leone, Somalia, Sudan, Tunisia, and United Republic of

Tanzania: draft articles on EEZ, U.N. Doc. A/AC.138/SC.II/L.40 (16 July, 1973) and Corr. 1-3 ("Fourteen Power: draft articles on EEZ") reproduced in 28 Seabed Com. Rep. 3, at 87.

⁴²Draft articles on EEZ concept, U.N. Doc. A/AC.138/SC.II/L.10 (7 Aug., 1972) reproduced in 27 Seabed Com. Rep. 180. These draft articles, *inter alia*, contained (in art. 6) more or less similar provisions concerning landlocked states, to those embodied in the Yaoundé Conclusions, *supra* note 41. The Kenyan draft articles, together with the OAU Declaration, were later replaced by Fourteen Power: draft articles on EEZ, *supra* note 41. See generally statement by the Kenyan delegate, U.N. Doc. A/AC.138/SC.II/SR.33-47 (29 Nov., 1972) at 54-55.

⁴³Colombia, Mexico, and Venezuela: draft articles, *supra* note 40. Iceland: area adjacent to territorial sea, U.N. Doc. A/AC.138/SC.II/L.23 (5 Apr., 1973); Brazil: draft articles, U.N. Doc. A/AC.138/SC.II/L.25 (13 July, 1973); Malta: coastal state jurisdiction, U.N. Doc. A/AC.138/SC.II/L.28 (13 July, 1973); China: working paper, U.N. Doc. A/AC.138/SC.II/L.34 (16 July, 1973); USA: coastal sea-bed economic area, U.N. Doc. A/AC.138/SC.II/L.35 (16 July, 1973) & Corr. 1; Australia & Norway: economic zone and delimitation, U.N. Doc. A/AC.138/SC.II/L.36 (16 July, 1973) and corr. 1; Argentina: draft articles, U.N. Doc. A/AC.138/SC.II/L.37 (16 July, 1973); Fourteen Power: draft articles on EEZ, *supra* note 41; Uganda & Zambia: economic zone, U.N. Doc. A/AC.138/SC.II/L.41 (16 July, 1973); Pakistan: territorial sea and economic zone, U.N. Doc. A/AC.138/SC.II/L.52 (9 Aug., 1973). All the above draft articles and working papers have been reproduced in 28 Seabed Com. Rep. 3. For an overview of these draft articles and working papers, see Stevenson & Oxman, *supra* note 40, at 13-16. See generally items 6 & 9, Variants submitted by delegations, 28 Seabed Com. Rep. 4. See also note 82 *infra*.

⁴⁴Iceland: area adjacent to territorial sea; Brazil: draft articles; Malta: coastal state jurisdiction; China: working paper; Australia and Norway: economic zone and delimitation; Argentina: draft articles; and Pakistan: territorial sea and economic zone, *id.*; Colombia, Mexico, Venezuela: draft articles, *supra* note 40; Fourteen Power: draft articles on EEZ, *supra* note 41.

⁴⁵See para. (b) of the introductory note and art. 88(4), Malta: coastal state jurisdiction, *supra* note 43.

⁴⁶See item 2(3), China: working paper, *supra* note 43.

⁴⁷See art. 14, Argentina: draft articles, *supra* note 43.

⁴⁸See art. 8, Fourteen Power: draft articles on EEZ, *supra* note 41.

⁴⁹See art. 4(1), Uganda & Zambia: economic zone, *supra* note 43.

⁵⁰*Id.* art. 4(2).

⁵¹Canada, India, Kenya, Madagascar, Senegal, and Sri Lanka: fisheries, U.N. Doc. A/AC.138/SC.II/L.38 (16 July, 1973) and Corr. 1 reproduced in 28 Seabed Com. Rep. 3, at 82. These draft articles are an elaboration of the fisheries aspect of the EEZ concept.

⁵²*Id.* art. 6.

⁵³See, e.g., statements by the delegates of Byelorussian S.S.R., Nepal, and Hungary to the Seabed Committee, U.N. Doc. A/AC.138/SR. 45-60 (7 June, 1971), at 88, 135, and 145, respectively; see also statements by the delegates of Czechoslovakia, Nepal, Bolivia, and Byelorussian S.S.R. to Sub-Committee II of the Seabed Committee, U.N. Doc. A/AC.138/SC.II/SR.4-23 (2 Dec., 1971), at 50, 78, 146, and 169, respectively. Some landlocked and shellflocked states had proposed a limit of 200 meters depth or forty nautical miles for coastal state seabed jurisdiction, with an additional intermediate zone of forty nautical miles to constitute the "coastal State priority zone" over the exploitation of the resources of which the coastal state would have veto rights. Besides the vast dissimilarity in its proposed limit, this proposal

also differed in content from the EEZ concept in that it advocated a "priority" zone rather than an "exclusive" zone. Moreover, it allowed access only to the mineral resources of that zone rather than all the resources as contemplated by the EEZ concept. Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands, and Singapore: working paper, U.N. Doc. A/AC.138/55 (19 Aug., 1971) reproduced in 26 Seabed Com. Rep. 194-96.

⁵⁴U.N. Doc. A/AC.138/SC.II/SR.48-62 (16 May, 1973), at 92-93.

⁵⁵See statement by the Zambian delegate *id.*, at 234-35. As stated by the Bolivian delegate, "the recognition of preferential rights for coastal States over extensive areas adjacent to their coasts, would [be] absurd if it were established that landlocked countries have no right to the living resources even of the adjacent sea." 26 U.N. GAOR, Plen. Mtgs. (1971), 1957th mtg. para. 109.

⁵⁶U.N. Doc. A/AC.138/66/Corr. 2 (4 Apr., 1972).

⁵⁷See statements by the delegates of Bolivia, Austria, and Afghanistan, U.N. Doc. A/AC.138/SC.II/SR.24-32 (29 June, 1972), at 58, 78 and 139, respectively.

⁵⁸Statement by the Bolivian delegate, *id.*, at 137.

⁵⁹U.N. Doc. A/AC.138/72 (4 Apr., 1972) and Corr. 1 reproduced in 27 Seabed Com. Rep. 151.

⁶⁰See item 6, *id.*

⁶¹Item 8.3, *supra* note 56; *cf.* item 7.3, U.N. Doc. A/AC.138/58 (20 Aug., 1971).

⁶²Item 8.2.7, *supra* note 59.

⁶³U.N. Doc. A/AC.138/66/Rev. 1 (16 Aug., 1972). It is interesting to note that this list did not include a proposal by Malta to reformulate the title of the item concerning landlocked states to include "obligations" with "rights" and "interests." See item 8, U.N. Doc. A/AC.138/67 reproduced in 27 Seabed Com. Rep. 147, 148.

⁶⁴See statements by the delegates of Austria, Bolivia, and Byelorussian S.S.R., U.N. Doc. A/AC.138/SR.33-47 (29 Nov., 1972) at 70, 71-72, respectively.

⁶⁵U.N. Doc. A/AC.138/SC.II/SR.33-47 (29 Nov., 1972), at 70; *see also* 2 Off. Rec. 199, para. 55.

⁶⁶See, *e.g.*, statement by the Paraguayan delegate, 27 U.N. GAOR, Plen. Mtgs. (1972), 2062nd mtg. para. 16.

⁶⁷Art. [14], Bolivia: landlocked countries, U.N. Doc. A/AC.138/92 (12 July, 1973) reproduced in 28 Seabed Com. Rep. 2, at 12, 15.

⁶⁸Afghanistan, Austria, Belgium, Bolivia, Nepal, and Singapore: resource jurisdiction, U.N. Doc. A/AC.138/SC.II/L.39 (16 July, 1973) reproduced in 28 Seabed Com. Rep. 3, at 85. Zaire, a shelflocked state, later also introduced draft articles on fishing; regarding landlocked states' participation in the exploitation of living resources in the EEZ, *see* art. 2, Zaire: fishing, U.N. Doc. A/AC.138/SC.II/L.60 (17 Aug., 1973) reproduced in 28 Seabed Com. Rep. 3, at 114.

⁶⁹See *supra* note 43 and text above notes 49 and 50. Later at the second session of the Conference, Bolivia and Paraguay also submitted draft articles on the "regional economic zone," *see* note 82 *infra*.

⁷⁰Kampala Declaration, U.N. Doc. A/CONF.62/23 (2 May, 1974) reproduced in 3 Off. Rec. 3. This declaration was circulated at the second session of the Conference at the request of the Ugandan delegate who urged that it be used as a basis for discussion and negotiations since it "outlined the very basic legitimate aspirations of the landlocked and other geographically disadvantaged States." 2 Off. Rec. 241, para. 25.

⁷¹Para. 8, Kampala Declaration, *supra* note 70. This had been emphasized by the Czechoslovakian delegate who had stated that the conference on the law of the sea should not "sweep aside the existing law but rather that it should extend the existing law and adjust it to the new requirements." U.N. Doc. A/AC.138/SC.II/SR.48-62 (16 May, 1973), at 92, 95.

⁷²Para. 9, Kampala Declaration, *supra* note 70.

⁷³*See, e.g.*, statement by the Paraguayan delegate, 2 Off. Rec. 175, para. 61.

⁷⁴*See, e.g.*, statements by the delegates of Mongolia, Bolivia, and Zambia, 1 Off. Rec. 91, para. 44, 105, para. 28, and 131, paras. 52-53, respectively; and Upper Volta, Paraguay, and Austria, 2 Off. Rec. 174, para. 41, 175, para. 60, and 223, para. 74, respectively.

⁷⁵*See, e.g.*, statements by the delegates of Bolivia, Uganda, and Upper Volta, 1 Off. Rec. 105, para. 28, 168, paras. 25 & 26, and 186, para. 39, respectively; and Laos, Switzerland, Burundi, Afghanistan, and Hungary, 2 Off. Rec. 180, para. 132, 180, para. 139, 191, para. 60, 216, para. 62, and 243, para. 57, respectively. *See also* Pollard, *supra* note 33, at 609 and note 20.

⁷⁶*See, e.g.*, statements by the delegates of Paraguay, Burundi, Bolivia, Afghanistan, Austria, and Botswana, 2 Off. Rec. 175, para. 59, 191, para. 60, 199, paras. 58 & 59, 216, para. 64 (also 248, para. 39 and 1 Off. Rec. 134, para. 9), 223, para. 77, and 245, para. 6, respectively.

⁷⁷*See, e.g.*, statements by the delegates of Pakistan, Nigeria, Uruguay, and Thailand, 2 Off. Rec. 195, para. 3 (and 250, para. 59), 245, para. 2, 256, para. 52, and 255, para. 33, respectively.

⁷⁸*See* 2 Off. Rec. 197, para. 27.

⁷⁹*See* 2 Off. Rec. 179, para. 123.

⁸⁰*See* 2 Off. Rec. 183, para. 18.

⁸¹*See* note 43 *supra*.

⁸²Nigeria: draft articles, U.N. Doc. A/CONF.62/C.2/L.21/Rev. 1 (5 Aug., 1974); Bulgaria, Byelorussian S.S.R., German Dem. Rep., Poland, Ukrainian S.S.R., and U.S.S.R.: draft articles, U.N. Doc. A/CONF.62/C.2/L.38 (5 Aug., 1974); U.S.A.: draft articles, U.N. Doc. A/CONF.62/C.2/L.47 (8 Aug., 1974); Bolivia and Paraguay: draft articles on the "regional economic zone", U.N. Doc. A/CONF.62/C.2/L.65 (16 Aug., 1974); 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, U.N. Doc. A/CONF.62/C.2/L.82 (26 Aug., 1974) ("Eighteen Power: draft articles"); Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand, and Norway: working paper, U.N. Doc. A/CONF.62/L.4 (26 July, 1974); Nicaragua: working paper, U.N. Doc. A/CONF.62/C.2/L.17 (23 July, 1974); El Salvador: working paper, U.N. Doc. A/CONF.62/C.2/L.60 (14 Aug., 1974). All these are reproduced in 3 Off. Rec. *See generally* Main Trends, U.N. Doc. A/CONF.62/C.2/WP.1 (15 Oct., 1974); this is a working paper, the purpose of which is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the Seabed Committee or to the Conference.

⁸³2 Off. Rec. 172, para 10.

⁸⁴*See* art. 2(3), Nigeria: draft articles, *supra* note 82; *see generally* statement by the Nigerian delegate, 2 Off. Rec. 232, para. 14. Although this provision has been considered to be legitimate, the Nigerian draft articles in general have been criticized by some coastal states. *See, e.g.*, statements by the delegates of Pakistan, and Ivory Coast, 2 Off. Rec. 195, para. 4, and 197, para. 34, respectively.

⁸⁵See art. 16(b), Bulgaria, Byelorussian S.S.R., German Dem. Rep., Poland, Ukrainian S.S.R., and U.S.S.R.: draft articles, *supra* note 82; see generally statement by the U.S.S.R. delegate, 2 Off. Rec. 252, para. 8. This proposal has been criticized by the Chinese delegate on the ground that landlocked states have been placed second in order of priority to be observed by coastal states while granting foreign states permission to fish the surplus stock. See 2 Off. Rec. 228, para. 25.

⁸⁶Art. 19, Bulgaria, Byelorussian S.S.R., German Dem. Rep., Poland, Ukrainian S.S.R., and U.S.S.R.: draft articles, *supra* note 82.

⁸⁷See art. 15, U.S.A.: draft articles, *supra* note 82.

⁸⁸See art. 13(b), *id.*

⁸⁹Art. 1 Bolivia and Paraguay: draft articles on the "regional economic zone," *supra* note 82.

⁹⁰*Id.* Art. 9.

⁹¹*Id.* Art. 5.

⁹²*Id.* Art. 2.

⁹³*Id.* Art. 3.

⁹⁴*Id.* Art. 11.

⁹⁵See art. 6, Eighteen Power: draft articles, *supra* note 82; see generally statement by the Tanzanian delegate, 2 Off. Rec. 297, paras. 7 and 12.

⁹⁶See art. 13, Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand, and Norway: working paper, *supra* note 82; see also statement by the delegate of New Zealand, 2 Off. Rec. 170, para. 7.

⁹⁷Para. 8, Nicaragua: working paper, *supra* note 82.

⁹⁸For a somewhat different perspective on the proposed approaches to the EEZ, see Alexander and Hodgson, *supra* note 33; Taft, "The Third U.N. Law of the Sea Conference: Major Unresolved Fisheries Issues," 14 COLUM. J. TRANSNAT'L L. 112, 113 (1975).

⁹⁹See Ecuador, Panama, and Peru: draft articles, U.N. Doc. A/AC.138/SC.II/L.27 (13 July, 1973) and Corrs. 1 & 2 reproduced in 28 Seabed Com. Rep. 3, at 30. See generally Uruguay: territorial sea, U.N. Doc. A/AC.138/SC.II/L.24 reproduced *id.*, at 23. See also Argentina: draft articles, *supra* note 43; Ecuador: territorial sea, U.N. Doc. A/CONF.62/C.2/L.88 (17 Apr., 1975) reproduced in 4 Off. Rec. 194. For a typical response by landlocked states against the territorialist approach, see statements by the delegates of Mali, Paraguay, and Hungary, 4 Off. Rec. 78, para. 41, 79, paras. 48 and 49, respectively.

¹⁰⁰See sec. IX, Ecuador, Panama, and Peru: draft articles; sec. VII, Uruguay: territorial sea; and art. 7, Ecuador: territorial sea, *supra* note 99; art. 14, Argentina, draft articles, *supra* note 43. See also statements by the delegates of Peru, and Ecuador, 2 Off. Rec. 250, para. 64, and 257, paras. 62 and 63, respectively.

¹⁰¹See, e.g., Nigeria: draft articles, and Eighteen Power: draft articles, *supra* note 82; Fourteen Power: draft articles on EEZ, *supra* note 41.

¹⁰²See, e.g., 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 ("Twenty-two Power: draft articles"), U.N. Doc. A/CONF.62/C.2/L.39 (5 Aug., 1974) reproduced in 3 Off. Rec. 216. These draft articles, according to one of their sponsors, represent a regional or subregional approach. See 2 Off. Rec. 223, para. 76.

¹⁰³See draft articles submitted by Uganda and Zambia, *supra* note 43, and by Bolivia and Paraguay, *supra* note 82.

¹⁰⁴See Haiti and Jamaica: draft articles, U.N. Doc. A/CONF.62/C.2/L.35 (1 Aug., 1974); and Jamaica: draft articles, U.N. Doc. A/CONF.62/C.2/L.36 (5 Aug., 1974) reproduced in 3 Off. Rec. 213 and 214, respectively.

¹⁰⁵Netherlands: intermediate zone: U.N. Doc. A/AC.138/SC.II/L.59 (21 Aug., 1973) and Corrs. 1-2 reproduced in 28 Seabed Com. Rep. 3, at 111. This proposal superseded an earlier working paper submitted by the Netherlands concerning the concept of an intermediate zone. See U.N. Doc. A/AC.138/86 (16 Mar., 1973) reproduced in 28 Seabed Com. Rep. 2, at 1.

¹⁰⁶Belgium, Denmark, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, and Netherlands: fisheries, U.N. Doc. A/CONF.62/C.2/L.40 and add. 1 (5 and 28 Aug., 1974) reproduced in 3 Off. Rec. 217. See generally statement by the French delegate, 2 Off. Rec. 227, paras. 7-11. These draft articles have been identified with the preferential rights system (the fifth approach). See statement by the Norwegian delegate, 2 Off. Rec. 232, para. 19.

¹⁰⁷Art. 5, *supra* note 105.

¹⁰⁸See art. 8(2) (e), *supra* note 106.

¹⁰⁹See, e.g., the proposal by Japan, U.N. Doc. A/AC.138/SC.II/L.12 14 Aug., 1972) reproduced in 27 Seabed Com. Rep. 188-96; and statements by its delegate, U.N. Doc. A/AC.138/SC.II/SR.24-32 (29 June, 1972) at 95, and U.N. Doc. A/AC.138/SC.II/SR.33-47 (29 Nov., 1972) at 57; for an earlier statement and working paper by Japan in this regard see *Asian-African Report* 200-08 and 339-67, respectively. See also U.S.S.R.: Fisheries, U.N. Doc. A/AC.138/SC.II/L.6 (18 July, 1972), and the Moscow Declaration, U.N. Doc. A/AC.138/85 (17 Aug., 1972) both reproduced in 27 Seabed Com. Rep. 158-59 and 78-80, respectively.

¹¹⁰See Bulgaria, Byelorussian S.S.R., German Dem. Rep., Poland, Ukrainian S.S.R., U.S.S.R.: draft articles; and United States: draft articles, *supra* note 82.

¹¹¹See text between notes 85-88 *supra*.

¹¹²Footnote added. The term sovereign rights has been used in preference to sovereignty contained in art. 1 of the SNT relating to the territorial sea. While some of the draft articles and working papers relating to the EEZ submitted to the Seabed Committee and to the Conference use the word sovereignty, others apply the term sovereign rights to describe the rights of coastal states in the EEZ. However, the use of the word sovereignty has been interpreted not to denote absolute sovereignty, but only sovereign rights over the resources of the Zone. See, e.g., statement by the delegate of Byelorussian S.S.R., 2 Off. Rec. 205, para. 36. It is therefore not clear whether these words have been used interchangeably or are meant to connote different characteristics of the EEZ. The Indonesian delegate at the Conference suggested that "if the term 'sovereignty' was used to denote the nature of the right of the coastal State over its territorial sea, it might be preferable to use the words 'sovereign rights' in relation to the economic zone." 2 Off. Rec. 207, Para. 67. The delegate of Ecuador, however, pointed out that if the Zone was to be "exclusive" (i.e., the coastal state was entitled to exercise its right to the exclusion of third states), then the sovereign rights would be nothing but sovereignty. He has gone further to suggest that "a State could hardly exercise sovereign rights without possessing sovereignty." 2 Off. Rec. 214, Paras. 47 and 49. The term sovereign rights has also been criticized by the Nigerian delegate, who considered it as being "inappropriate to cover fish which might move from the territorial sea of one State to another or to the high seas within a single day." 2 Off. Rec. 172, Para. 13. In another context, the adjective sovereign has also been criticized by the French delegate as being superfluous and inadequate. See 2 Off. Rec. 185, Para. 42.

¹¹³Art. 45(1), SNT. The Bolivian delegate has criticized the SNT for having omitted certain provisions proposed by landlocked states. He reiterated his hope that the EEZ established would be of a regional nature. See 4 Off. Rec. 74, para. 14.

¹¹⁴Art. 45(2), SNT.

¹¹⁵The delegate of Austria seems to have reservations concerning the view expressed by some coastal states that the landlocked states should have the privilege to fish in the EEZ. According to him, "participation, which could to a certain extent offset the disadvantaged geographical situation of [landlocked and other geographically disadvantaged] States, should . . . not be regarded as a privilege." 2 Off. Rec. 223, para. 75. Further, the delegate of Paraguay has stated that "[t]heir requests for participation . . . reflected a natural and inalienable right. . . ." 2 Off. Rec. 175, para. 59. Out of a total of eighteen declarations, draft articles, and working papers which deal directly or indirectly with fishing in the EEZ, eleven are by coastal states mainly and seven by landlocked and shelflocked states. Out of the eleven mainly by coastal states, only three propose to grant landlocked states the right to participate in the exploitation of living resources in the EEZ. These are, Nigeria: draft articles; Belgium, Denmark, France, Federal Republic of Germany, Ireland, Italy, Luxembourg, and Netherlands: fisheries; and Eighteen Power: draft articles *supra* notes 82, 106, and 82, respectively. Three out of the remaining eight draft articles merely obligate the coastal states to grant the landlocked states "access to living resources" (see art. 88(4), Malta: coastal state jurisdiction *supra* note 43), "common enjoyment of a certain portion of [their] rights" (see art. 2(3), China: working paper, *supra* note 43), and "fishing rights which shall be preferential in relation to third States" (see art. 14, Argentina: draft articles, *supra* note 43); one proposal gives the discretion to the coastal states to enter into arrangements with landlocked states which enable their nationals to "participate in the exploitation of the living resources of the zone. . . ." (see art. B.1, Pakistan: draft articles on landlocked states, U.N. Doc. A/CONF.62/C.2/L.48 (8 Aug., 1974) reproduced in 3 Off. Rec. 225); the remaining four proposals grant the landlocked states the "privilege to fish" in the EEZ (see art. 6, Canada, India, Kenya, Senegal, and Sri Lanka: fisheries, *supra* note 51; art. 8, Fourteen Power: draft articles on EEZ, *supra* note 43; art. 19, Bulgaria, Byelorussian S.S.R., German Dem. Rep., Poland, Ukrainian S.S.R., and U.S.S.R.: draft articles, *supra* note 82; art. 15, United States: draft articles, *supra* note 82). The seven draft articles and a declaration by the landlocked, shelflocked, and other geographically disadvantaged states assert that they should have the right to participate in the living resources, *inter alia*, in the Zone (see para. 9, Kampala Declaration, *supra* note 70; art. [14], Bolivia: landlocked countries, *supra* note 67; art. 2, Afghanistan, Austria, Belgium, Bolivia, Nepal, and Singapore: resource jurisdiction, and art. 2, Zaire: fishing, *supra* note 68; art. 2, Haiti and Jamaica: draft articles, and art. 2, Jamaica: draft articles, *supra* note 104; art. 2, Twenty-two Power: draft articles, *supra* note 102. See also text following note 62 *supra*).

¹¹⁶See, e.g., statement by the delegate of Nepal, 1 Off. Rec. 170, para. 51.

¹¹⁷See, e.g., statements by the delegates of Bolivia, 1 Off. Rec. 105, para. 28, and Laos, 2 Off. Rec. 180, para. 128.

¹¹⁸See, e.g., statements by the delegates of Switzerland, 1 Off. Rec. 143, para. 19, and Afghanistan, 2 Off. Rec. 216, para. 64.

¹¹⁹See, e.g., statements by the delegates of Uganda, Byelorussian S.S.R., and Austria, 2 Off. Rec. 198, para. 40, 205, para. 35, and 223, para. 74, respectively.

¹²⁰C. J. COLOMBOS, THE INTERNATIONAL LAW OF THE SEA 66 (6th Rev. ed. 1967) notes that "whilst no serious dispute exists at present on the freedom of the seas, international jurists are not agreed as to the legal basis [*res communis* or *res nullius*] on which the doctrine is founded." M. WHITEMAN (*supra* note 8, at 79), however, observes that the 1958 Geneva Conference on the law of the sea affirmed the concept of *res communis*. She seems to base her observation on art. 2 of the Convention on the High Seas. In any event, the relevance of both the Roman law concepts, *res communis* and *res nullius*, is being questioned to justify present day claims. See, e.g., statements by the delegates of Malta, Libya, and Honduras quoted in P.S. RAO, THE PUBLIC ORDER OF OCEAN RESOURCES: A CRITIQUE OF CONTEMPORARY LAW OF THE

SEA 82-83 (1975). See also, statement by the permanent mission of Peru to the U.N. in INTERNATIONAL LAW OF THE SEA AND THE FUTURE OF DEEP SEABED MINING 45, 47 (C.C. Joyner ed. 1975).

¹²¹2 Off. Rec. 182, para. 8.

¹²²*Supra* note 18.

¹²³See Sohn, "The Development of the Charter of the United Nations: the Present State", in THE PRESENT STATE OF INTERNATIONAL LAW AND OTHER ESSAYS 39, 52 (M. Bos ed. 1973).

¹²⁴The claims can be classified into the following categories:

29	state(s)	3	miles
4	"	4	"
10	"	6	"
1	"	10	"
52	"	12	"
1	"	15	"
1	"	18	"
3	"	30	"
3	"	50	"
1	"	100	"
1	"	130	"
9	"	200	"

H. G. KNIGHT, THE LAW OF THE SEA: CASES, DOCUMENTS, AND READINGS 329 (1975-1976 ed.). Comparing these figures with the claims extant at the time of the first U.N. Conference on the Law of the Sea, Knight observes that "there is a marked trend away from a 3 mile breadth and toward a 12 mile breadth." He further notes that "[i]nternational legal scholars differ on the question whether a 12 mile breadth is now sanctioned by customary international law."

¹²⁵M. S. McDOUGAL and W. T. BURKE, THE PUBLIC ORDER OF THE OCEANS, A CONTEMPORARY INTERNATIONAL LAW OF THE SEA, 486 *et seq.* (1962) have dealt extensively with some of these and related issues. The question of delimitation of the sea areas has also been considered by the International Court of Justice. See Fisheries Case [1951] I.C.J. 116, and Fisheries Jurisdiction Case [1974] I.C.J. 3.

¹²⁶This question has been dealt with in the Fisheries Case, *supra* note 125; see Waldock, "The Anglo-Norwegian Fisheries case," 28 BRIT. Y. B. INT'L L. 114, 160 and 162 (1951). See generally MacGibbon, "Some Observations on the Part of Protest in International Law," 30 BRIT. Y. B. INT'L L. 293-319 (1953).

¹²⁷See generally app., Rules of Proc., U.N. Doc. A/CONF. 62/30/Rev. 1 & Corr. 1.

¹²⁸*Supra* note 67.

¹²⁹See text following note 170 *infra*.

¹³⁰*Supra* note 70.

¹³¹This is evident from the Twenty-two Power: draft articles, *supra* note 102. See statement by the Swedish delegate, 2 Off. Rec. 240, para. 13. See also Afghanistan, Austria, Belgium, Bolivia, Nepal, and Singapore: resource jurisdiction, *supra* note 68.

¹³²See art. 2, Twenty-two Power: draft articles, *supra* note 102.

¹³³2 Off. Rec. 241, para. 27.

¹³⁴See, e.g., statement by the Afghani delegate, 2 Off. Rec. 216, para. 64. See also art. 4, Twenty-two Power: draft articles, *supra* note 102.

¹³⁵See, e.g., statement by the Afghani delegate, 1 Off. Rec. 134, para. 7.

¹³⁶See art. 7, Twenty-two Power: draft articles, *supra* note 102.

¹³⁷See art. 6, *id.* According to the Bolivian delegate "[t]he only way to achieve justice and equity was to establish large regional economic zones in which all the States of a region, especially the landlocked countries, would co-operate fully." 2 Off. Rec. 295, para. 21; *see also* 2 Off. Rec. 199, paras. 55 and 60, and 1 Off. Rec. 105, para. 28. Lesotho is also an advocate of the regional economic zone concept; *see* 1 Off. Rec. 185, para. 32. The regional approach is strongly advocated by some shelflocked states also. *See, e.g.*, statements by the delegate of Singapore, 2 Off. Rec. 211, para. 1, and 244, para. 66. Even some coastal states are willing to accept this approach in a restricted form of regional fishery zones. *See, e.g.*, statement by the Ghanaian delegate, 2 Off. Rec. 240, para. 21.

¹³⁸See *Asian-African Report* 186.

¹³⁹2 Off. Rec. 252, para. 2.

¹⁴⁰2 Off. Rec. 205, para. 38.

¹⁴¹See, e.g., 2 Off. Rec. 198, para. 40.

¹⁴²As stated by the Zambian delegate, "[i]t would have been more appropriate to establish economic zones regionally, but her delegation recognised the need at the Conference for a conciliatory approach. It urged other States in other geographical areas to follow the positive examples set by the African Heads of State in paragraph 9 of the OAU Declaration. . . ." 1 Off. Rec. 131, para. 54; *see also* 2 Off. Rec. 258, para. 67. For para. 9 of the OAU Declaration, *see* note 41 *supra*.

¹⁴³See *generally* statements by the delegates of Algeria, Austria, and Zaire, 2 Off. Rec. 222, para. 67, 223, para. 75, and 227, para. 13, respectively.

¹⁴⁴See statement by the Swedish delegate, 2 Off. Rec. 181, para. 146.

¹⁴⁵See statement by the Ghanaian delegate, 2 Off. Rec. 240, para. 20, and 241, para. 22; *see generally* statement by the Turkish delegate, 2 Off. Rec. 251, para. 70.

¹⁴⁶See, e.g., statements by the delegates of Yugoslavia and Pakistan, 2 Off. Rec. 174, para. 36, and 195, paras. 2 and 4, respectively. However the delegate of Zaire has suggested that "[e]xclusivity should be given a regional and subregional meaning, particularly for the underdeveloped countries." 2 Off. Rec. 227, para. 14.

¹⁴⁷See note 100 *supra*. It is interesting to note the interpretation of the term preferential rights by the delegate of Trinidad and Tobago: he understood preferential rights to refer to "preferences *vis à vis* States of other regions, and the term 'equal rights' to mean that States of a subregion had equal rights of access with respect to each other." 2 Off. Rec. 179, para. 125.

¹⁴⁸2 Off. Rec. 244, para. 60, and 256, para. 51 respectively.

¹⁴⁹Art. B. 1, Pakistan: draft articles on landlocked states, *supra* note 115.

¹⁵⁰2 Off. Rec. 232, para. 13.

¹⁵¹See, e.g., statements by the delegates of Congo, Mauritania, Bangladesh, Egypt, and Democratic People's Republic of Korea. 2 Off. Rec. 176, para. 84, 178, para. 105, 182, para. 4, 204, para. 25, and 215, para. 60, respectively. All the draft proposals concerning the EEZ submitted by the coastal states which grant landlocked states access to the fisheries in the EEZ do so subject to bilateral, subregional, or regional agreements.

¹⁵²See, e.g., art. 14, Argentina: draft articles, and art. 2, Zaire: fishing, *supra* notes 43 and 68, respectively. *See also* Yaounde Conclusions, *supra* note 41.

¹⁵³See, e.g., art. 6, Canada, India, Kenya, Madagascar, Senegal, and Sri Lanka: fisheries, *supra* note 51; and art. B. 2., Pakistan: draft articles on landlocked states, *supra* note 115.

¹⁵⁴2 Off. Rec. 186, para. 54.

¹⁵⁵Pakistan: draft articles on landlocked states, *supra* note 115.

¹⁵⁶*Id.* art. 2.

¹⁵⁷See, e.g., Canada, India, Kenya, Senegal, and Sri Lanka: fisheries; Fourteen Power: draft articles on EEZ; and Eighteen Power: draft articles, *supra* notes 51, 43 and 82, respectively.

¹⁵⁸*Supra* note 82.

¹⁵⁹Art. 116, SNT.

¹⁶⁰Footnote added. The term living resources does not include sedentary species. See arts. 56 & 63(4), SNT.

¹⁶¹Art. 57, SNT.

¹⁶²Art. 59, SNT.

¹⁶³See generally Kury, "The Fisheries Proposals: an Assessment," 12 SAN DIEGO L. REV. 644, 649 (1975). The author has highlighted some of the complexities that may arise from granting foreign fishermen a right to exploit the balance of an allowable catch. He therefore suggests that a privilege rather than a right should be granted to foreign fishermen. He concludes, however, that "[p]roposals to give landlocked nations a share of nearby coastal fisheries produce complications but the result will be relatively simple. . . ."

¹⁶⁴H. C. BLACK, BLACK'S LAW DICTIONARY, 1486 (rev. 4d 1968).

¹⁶⁵These are highlighted in our consideration of the third and fourth issues below.

¹⁶⁶Haiti and Jamaica: draft articles; and Jamaica: draft articles, *supra* note 104.

¹⁶⁷Art. 5(1) (a), *id.*

¹⁶⁸Art. 2, *id.*

¹⁶⁹See annex I.

¹⁷⁰See, e.g., statements by the delegates of Uganda, Sweden, and Singapore, 2 Off. Rec. 198, para. 43, 240, para. 13, and 259, para. 12, respectively.

¹⁷¹2 Off. Rec. 223, para. 75; See also statement by the Swiss delegate, 2 Off. Rec. 243, para. 51; See generally statement by the Hungarian delegate, 1 Off. Rec. 142, para. 5.

¹⁷²2 Off. Rec. 240, para. 14. While all the landlocked states and their adjoining coastal states in Europe are developed, all the landlocked states and their adjoining coastal states in Africa, Asia, and South America fall into the category of developing states.

¹⁷³Art. 57, SNT.

¹⁷⁴Twenty-two Power: draft articles, *supra* note 102; see also statement by the Austrian delegate, 2 Off. Rec. 223 para. 76. The explanation given above of the meaning of this expression is not helpful insofar as its reasonable proximity criterion can be the subject of numerous interpretations. The Ghanaian delegate has thus interpreted the word neighboring in terms of adjacency. See 2 Off. Rec. 241, para. 22.

¹⁷⁵Annex I.

¹⁷⁶See annex II.

¹⁷⁷See Alexander and Hodgson, *supra* note 33 at 574.

¹⁷⁸*Id.*, at 575. The developing shelflocked and other geographically disadvantaged states are themselves contenders for fishing rights in the EEZs of other states in the satisfaction of the nutritional needs of their populations upon the exploitation of provides that "[d]eveloping 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 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." Art. 58, SNT.

¹⁷⁹As pointed out by the Pakistani delegate, "if developing transit States had to share their scanty resources with others they would become disadvantaged States." 2 Off. Rec. 250, para. 60.

¹⁸⁰Art. 51(4) (a), SNT.

¹⁸¹See art. 51(3), SNT.

¹⁸²Alexander and Hodgson, *supra* note 33, at 579.

¹⁸³*Asian-African Report* 287-88.

¹⁸⁴Art. 59, SNT.

¹⁸⁵Art. 4(a), SNT (Pt. III), at 23.

¹⁸⁶SNT (Pt. IV), U.N. Doc. A/CONF. 62/WP.9 (21 July, 1975), at 27-28. Compare the provisions of SNT (Pt. IV) with arts. 9 and 11 of the Convention on Fishing and Conservation of the Living Resources of the High Seas. For settlement procedures concerning fisheries disputes proposed at the Conference, see para. 9, United States: fisheries, U.N. Doc. A/AC.138/SC.II/L.9 (4 Aug., 1972) reproduced in 27 Seabed Com. Rep. 175-79; para. 6, Japan: fisheries, U.N. Doc. A/AC.138/SC. II/L.12 (14 Aug., 1972) reproduced *id.*, at 188-96; paras. 8 and 9, Australia and New Zealand: draft articles, U.N. Doc. A/CONF.62/C.2/L.57/Rev. 1 (22 Aug., 1974) reproduced in 3 Off. Rec. 231; see generally Sohn, "Settlement of Disputes Arising out of the Law of the Sea Convention," 12 SAN DIEGO L. REV. 495 (1975); Adede, "Settlement of Disputes Arising under the Law of the Sea Convention," 69 AM. J. INT'L. 798 (1975).

¹⁸⁷See art. 1, SNT (Pt. IV), at 27.

¹⁸⁸See art. 8, *id.*, at 28.

¹⁸⁹Weisberg, "Developments in the Ocean Rights of Landlocked Nations," in CURRENT ASPECTS OF SEA LAW 18, 26 (W. W. Seymour ed. 1974).

¹⁹⁰See Franck *et al.*, *supra* note 12, at 42.

¹⁹¹For a study of the regional law of the sea as a means of sharing regional ocean resources with regional landlocked states, see Janis, "The Roles of Regional Law of the Sea," 12 SAN DIEGO L. REV. 553, 565 *et seq.* (1975). See generally M. I. GLASSNER, *supra* note 5, at 237 *et seq.*

¹⁹²Off. Rec. 168, para. 27.

LANDLOCKED STATE AND POPULATION ¹	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	ANNEX I		FISHING ACTIVITY ³
		OPENING TO THE SEA	DISTANCE TO THE SEA (MILES) ²	
<i>Africa</i>				
1. Botswana	Namibia	Atlantic Ocean		In the northern part of Botswana in the Okavango Delta, fish forms an important diet. Government is now engaged in research for fisheries development. In 1973 fish caught from inland waters amounted to 1.2 thousand metric tons ("TMT").
560,000	S. Africa (Rhodesia)* (Zambia)*	Atlantic Ocean Indian Ocean	Durban 450	
2. Burundi	Tanzania	Indian Ocean	Dar es Salaam	Fishing is carried on in Lakes Tanganyika, Cohoba and Rweru. Traditional methods are applied. Some commercial fishing using modern techniques has now been introduced. In 1973 fish caught from inland waters amounted to 8.3 TMT.
3,200,000	Zaire (Rwanda)*	Atlantic Ocean		

¹All figures are rounded and are inserted for comparative purposes only. M. I. Glassner, *Access to the Sea for Developing Landlocked States* 6-7 (1970).

²*Id.* Rounded straight line distance from capital of landlocked state to most commonly used seaports.

³This information is largely drawn from *Worldmark Encyclopedia of the Nations* (Africa, Americas, Asia & Australia, and Europe) (N.Y. Sachs ed. 1963), *The New Encyclopedia Britannica* (15th ed. 1975), Food and Agriculture Organization of the United Nations, 36 & 37 *Yearbook of Fishery Statistics* (1973), and some personal sources.

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) * STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
3. Central African Republic 1,300,000	Cameroon	Gulf of Guinea (Atlantic Ocean)		Fishing is carried on extensively in the local lakes and rivers, but much of it is bartered across the border and little is consumed in the country. Fish farming programs have been started by the government. In 1973, fish caught from inland waters amounted to 3.5 TMT.
	Congo (Brazzaville)	Atlantic Ocean	Pointe Noire 700	
	Sudan	Red Sea		
	Zaire	Atlantic Ocean		
	(Chad) *			
4. Chad 3,300,000	Cameroon	Gulf of Guinea (Atlantic Ocean)		Fish form an important element in the diet of the people. Fishing is carried on in local lakes mainly in Lake Chad. Full potential is being exploited. Fish are processed for domestic sale and some of it is exported to neighboring countries, mainly Nigeria. Fishing is, however, more important for the nutrition that it supplies than for its commercial significance. In 1973, fish caught from inland waters amounted to 105.0 TMT.
	Libya	Mediterranean Sea		
	Nigeria	Gulf of Guinea (Atlantic Ocean)	Lagos 900	
	Sudan	Red Sea		
	(Central African Republic) *			
(Niger) *				

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) * STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
5. Lesotho 860,000	S. Africa (enclave)	Atlantic Ocean Indian Ocean	Cape Town 625 Durban 200	
6. Malawi 4,000,000	Mozambique E & S Tanzania N (Zambia) * W	Mozambique Channel (Indian Ocean) Indian Ocean	Beira 300	Fishing is carried on in local lakes. Commercial fishing industry is growing. In 1973, fish caught from inland waters amounted to 40.4 TMT.
7. Mali 4,600,000	Algeria N Guinea S Ivory Coast S Mauritania W Senegal W (Niger) * E (Upper Volta) * E	Mediterranean Sea Atlantic Ocean Atlantic Ocean Atlantic Ocean Atlantic Ocean	Conakry 475 Dakar 650	Extensive fishing is carried on in local lakes and rivers for commercial purposes. Fish in these lakes and rivers form the basis of a growing fishing and fish-processing industry. Mali is the third largest producer of fish in W. Africa. Fish ranks third in Mali's export. In 1973, fish caught from inland waters amounted to 90.0 TMT.

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) STATE(S)		OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
8. Niger 3,300,000	Algeria	N.W.	Mediterranean Sea	Cotonou 500	There is no commercialised fishing on a wide scale. Fishing is carried on in local lakes and Chad and Niger rivers. Nominal export is made to coastal states in the south—mainly to Nigeria. In 1973, fish caught from inland waters amounted to 12.5 TMT.
	Dahomey	S & W	Gulf of Guinea (Atlantic Ocean)		
	Libya	N.E.	Mediterranean Sea		Some commercial fishing is carried on locally, but it is not an important factor in the economy. In 1973, fish caught from inland waters amounted to 2.0 TMT.
	Nigeria	S	Gulf of Guinea (Atlantic Ocean)		
	(Chad) *	E			
	(Mali) *	W			
	(Upper Volta) *	W			
9. Rhodesia 4,300,000	Mozambique	N & N.E.	Mozambique Channel (Indian Ocean)	Beira 300	
	S. Africa	S	Indian Ocean Atlantic Ocean		
	(Botswana) *				
	(Zambia) *				

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
10. Rwanda 3,100,000	Tanzania Zaire (Burundi)* (Uganda)*	Indian Ocean Atlantic Ocean	Dar es Salaam 750	Some fishing is carried on in local lakes and rivers for domestic purposes. In 1973, fish caught from inland waters amounted to 1.3 TMT.
11. Swaziland 370,000	Mozambique S. Africa	Mozambique Channel (Indian Ocean) Indian Ocean Atlantic Ocean	Lourenco Marques 100	
12. Uganda 7,500,000	Kenya Sudan Zaire Tanzania (Rwanda)*	Indian Ocean Red Sea Atlantic Ocean Indian Ocean	Mombasa 500	Fishing on Lakes Victoria, Albert and George. Domestic fish ponds are becoming widespread. About two thousand persons find employment in fishing and the marketing of fish. Supply is mostly within the domestic market. However, many of the fishermen sell their catch to the Uganda Fish Marketing Corporation or Pelican

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Uganda (cont'd.)				
13. Upper Volta 4,900,000	Dahomey Ghana Ivory Coast Togo (Mali)* (Niger)*	E S S S N & W E	Gulf of Guinea (Atlantic Ocean) Abidjan 525 Atlantic Ocean (Atlantic Ocean) (Atlantic Ocean)	Despite the possibilities for fishing in the western part of the country, fishing is not very popular. Government is trying to encourage fishing. Small amounts of fish are exported. In 1973, fish caught in inland waters amounted to 3.5 TMT.
				Fisheries. Both these firms supply fresh and frozen fish to markets throughout East Africa. Most of this export is directed to Kenya and to Zaire. In 1973, fish caught in inland waters amounted to 169.0 TMT. Of this 100.00 TMT was marketed fresh; 11.00 TMT frozen and 58.00 TMT subject to the process of curing. 0.1 TMT was exported.

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) * STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
14. Zambia	Angola	Atlantic Ocean		Fish are found in local lakes and rivers. Some commercial fishing is carried on for domestic consumption. In 1973 fish caught from inland waters amounted to 33.3 TMT.
3,700,000	Mozambique	Mozambique Channel (Indian Ocean)	Beira 575	
	Namibia	Atlantic Ocean		
	Tanzania	Indian Ocean	Dar es Salaam 1,000	
	Zaire	Atlantic Ocean		
	(Botswana (??)*)			
	(Malawi)*			
	(Rhodesia)*			

<u>LANDLOCKED STATE AND POPULATION</u>	<u>ADJOINING COASTAL (AND LANDLOCKED) STATE(S)</u>	<u>OPENING TO THE SEA</u>	<u>DISTANCE TO THE SEA (MILES)</u>	<u>FISHING ACTIVITY</u>
<i>Asia</i>				
1. Afghanistan 15,000,000	China	N.E.	Yellow Sea East China Sea South China Sea	Some fishing takes place in the lakes and rivers, but fish do not constitute a significant part of the Afghan diet. In 1973, fish caught from inland waters amounted to 1.5 TMT.
	Iran	W	Persian Gulf Gulf of Oman	
	Pakistan	E & S	Arabian Sea (Indian Ocean)	
	U.S.S.R.	N	Bering Sea Sea of Okhotsk Sea of Japan (Pacific Ocean) White Sea Barents Sea Kara Sea Laptev Sea (Arctic Ocean) Baltic Sea Black Sea	
			Karachi	
2. Bhutan 700,000	China	N	Yellow Sea East China Sea South China Sea	Some fish in local waters; but fishing is not an important occupation. Recently, a fish hatchery has been estab-

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) * STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Bhutan (Cont.)	India	Indian Ocean	Calcutta 375	lished, and a government programme of stocking lakes and rivers all over the country has made satisfactory progress. In 1973, fish caught from inland waters amounted to 1.0 TMT.
3. Laos 2,000,000	Burma	Bay of Bengal (Indian Ocean)		Edible fish found in Mekong and other rivers constitute the main source of protein in Laotian diet. Despite the abundance of fish and their important contribution to the Laotian subsistence economy, there has been no systematic development of the fishing areas. In 1973, fish caught from inland waters amounted to 20.0 TMT.
	Cambodia	Gulf of Siam		
	China	Yellow Sea East China Sea South China Sea		
	N. Vietnam	South China Sea		
	S. Vietnam	South China Sea	Saigon 575	
	Thailand	Gulf of Siam Andaman Sea	Bangkok 375	
4. Mongolia 1,100,000	China	Yellow Sea East China Sea South China Sea	Tientsin 775	Freshwater lakes and rivers harbor some sixty fish species. A small fishing indus-

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED) STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Mongolia (Cont.)	U.S.S.R.	(See No. 1 above)		try operates in the northern part, but there is little fishing because Mongols dislike fish as food.
5. Nepal 10,000,000	India Tibet (China)	Indian Ocean Yellow Sea East China Sea South China Sea	Calcutta 450	Sport fishing is carried on in rivers. Fisheries development centers and fish hatcheries have been established by the Government and there are plans for expanding fish breeding in artificial ponds. In 1973, fish caught from inland waters amounted to 2.2 TMT.
<i>Europe</i>				
1. Austria 7,300,000	Federal Rep. of Germany Italy	North Sea Baltic Sea Adriatic Sea Ionian Sea Tyrrhenian Sea (Mediterranean Sea)	Hamburg Trieste 460 225	Some fishing is done in local lakes and rivers. But fishing is not important commercially and fish do not constitute a large part of the Austrian diet. In 1973, fish caught from inland waters amounted to 2.2 TMT; 0.6 TMT was exported; 52.4 TMT was imported.

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Austria (Cont.)	Yugoslavia (Czechoslovakia)* (Hungary)* (Liechtenstein)* (Switzerland)	Adriatic Sea		
2. Byelorussian SSR.	Poland U.S.S.R.	Baltic Sea Bering Sea Sea of Okhotsk Sea of Japan (Pacific Ocean) White Sea Barents Sea Kara Sea Laptev Sea (Arctic Ocean) Baltic Sea Black Sea	— Kaliningrad 300 Riga 250	
3. Czechoslovakia 14,000,000	Federal Rep. of Germany German Democratic Rep.	North Sea Baltic Sea Baltic Sea	Hamburg 310	Fishing is not an important source of domestic food supply. There is little pond-fishing and even less river fishing. In 1973, fish caught

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Czechoslovakia (Cont.)	Poland	N.E.	Baltic Sea	from inland waters amounted to 15.1 TMT. Of this, 2.8 TMT was exported; 100.2 TMT was imported. (Czechoslovakia is one of the few landlocked states which has a shipping fleet.)
	U.S.S.R.	E	(See No. 2 above)	
	(Austria)* (Hungary)*	S.W. S.E.		
4. Hungary 10,000,000	Romania	E	Black Sea	Some fishing is carried on in local rivers and artificial ponds. Fish catch has increased in recent years. In 1973, fish caught from inland waters amounted to 29.1 TMT. Of this, 20.1 TMT was marketed fresh and 1.0 TMT canned. 5.1 TMT was exported and 71.3 TMT imported.
	U.S.S.R.	E	(See No. 2 above)	
	Yugoslavia	S		
	(Austria)* (Czechoslovakia)*	W N	Trieste	
5. Liechtenstein	(Austria)*	E	Genoa	There is no commercial fishing. Fishing is carried on as a sport in local rivers.
20,000	(Switzerland)*	W	Rotterdam	
6. Luxembourg 330,000	Belgium	N & W	North Sea	Fishing is not an important industry, but there is some commercial fishing in local rivers for domestic consumption.
	Federal Rep. of Germany	E	North Sea Baltic Sea	

LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
Luxembourg (Cont.)	France	S	Bay of Biscay English Channel (Atlantic Ocean) Mediterranean Sea	
7. San Marino 17,000	Italy	(enclave)	Adriatic Sea Ionian Sea Tyrrhenian Sea (Mediterranean Sea)	Rimini 10
8. Switzerland 6,000,000	Federal Rep. of Germany France	N W	North Sea Bay of Biscay English Channel (Atlantic Ocean) Mediterranean Sea	Fishing is carried on in many Swiss lakes and rivers, but it is a relatively unimportant commercial activity. Local fish supply constitutes 15% of annual domestic needs. Remaining 85% is imported. In 1973 fish caught from inland waters amounted to 28 TMT. Of this, 1.7 TMT was exported; 106.6 TMT was imported. (Switzerland maintains an ocean-going shipping fleet.)

	LANDLOCKED STATE AND POPULATION	ADJOINING COASTAL (AND LANDLOCKED)* STATE(S)	OPENING TO THE SEA	DISTANCE TO THE SEA (MILES)	FISHING ACTIVITY
<i>South America</i>					
1.	Bolivia 3,400,000	Argentina Brazil Chile	S N & N.E. S.W.	Atlantic Ocean Atlantic Ocean Pacific Ocean	Fishing is a minor activity and is carried on in local lakes and rivers. In 1973, fish caught from inland waters amounted to 2.2 TMT.
		Peru (Paraguay) *	W S.E.	Pacific Ocean Mollendo	250
2.	Paraguay 2,000,000	Argentina Brazil (Bolivia) *	S.E. & S.W. E N & N.W.	Atlantic Ocean Atlantic Ocean	Rosario 550
					Fish are plentiful in local rivers and marshes. Fishing is carried on an individual basis. The catch is insignificant since there is no organized fishing industry. The country, however, has potential fishery resources. In 1973 fish caught from inland waters amounted to 2.7 TMT.

ANNEX II		TOTAL
COASTAL STATE	ADJOINING LANDLOCKED STATE(S)	
<i>Africa</i>		
1. Algeria	Mali, Niger	2
2. Angola	Zambia	1
3. Cameroon	Central African Republic, Chad	2
4. Congo	Central African Republic	1
5. Dahomey	Niger, Upper Volta	2
6. Ghana	Upper Volta	1
7. Guinea	Mali	1
8. Ivory Coast	Mali, Upper Volta	2
9. Kenya	Uganda	1
10. Libya	Chad, Niger	2
11. Mauritania	Mali	1
12. Mozambique	Malawi, Rhodesia, Swaziland, Zambia	4
13. Namibia	Botswana, Zambia	2
14. Nigeria	Chad, Niger	2
15. Senegal	Mali	1
16. S. Africa	Botswana, Lesotho, Rhodesia, Swaziland	4
17. Sudan	Central African Republic, Chad, Uganda	3
18. Tanzania	Burundi, Malawi, Rwanda, Uganda, Zambia	5
19. Togo	Upper Volta	1
20. Zaire	Burundi, Central African Republic, Rwanda, Uganda, Zambia	5

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	<u>COASTAL STATE</u>	<u>ADJOINING LANDLOCKED STATE(S)</u>	<u>TOTAL</u>
<i>Asia</i>			
1.	Burma	Laos	1
2.	Cambodia	Laos	1
3.	China	Afghanistan, Bhutan, Laos, Mongolia, Nepal	5
4.	India	Bhutan, Nepal	2
5.	Iran	Afghanistan	1
6.	N. Vietnam	Laos	1
7.	Pakistan	Afghanistan	1
8.	S. Vietnam	Laos	1
9.	Thailand	Laos	1
10.	U.S.S.R.	Afghanistan, Mongolia	2
<i>Europe</i>			
1.	Belgium	Luxembourg	1
2.	Federal Republic of Germany	Austria, Czechoslovakia, Luxembourg, Switzerland	4
3.	France	Luxembourg, Switzerland	2
4.	German Democratic Republic	Czechoslovakia	1
5.	Italy	Austria, Holy See, San Marino, Switzerland	4
6.	Poland	Byelorussian S.S.R., Czechoslovakia	2
7.	Romania	Hungary	1
8.	U.S.S.R.	Byelorussian S.S.R., Czechoslovakia, Hungary	3
9.	Yugoslavia	Austria, Hungary	2
<i>S. America</i>			
1.	Argentina	Bolivia, Paraguay	2
2.	Brazil	Bolivia, Paraguay	2
3.	Chile	Bolivia	1
4.	Peru	Bolivia	1