THE KENYA DRAFT ARTICLES ON EXCLUSIVE MARITIME ECONOMIC ZONE CONCEPTS: ANALYSIS AND COMMENTS

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1. THE ECONOMIC ZONE CONCEPT - KENYA PROPOSAL

The concept of exclusive economic zone as proposed by Kenya was first introduced to the United Nations Committee on Sea Bed in August, 1971.[1] Since then, it has been developed, alongside with other preferential zone proposals, as a possible formula to meet what many of the states consider as the special interests of coastal states over the resources of the sea adjacent to their territorial sea.[2] Kenya later refined the concept and submitted to the Committee on Sea Bed with the title of "Draft Articles on Exclusive Economic Zone Beyond the Territorial Sea [3] as a compromise between the special needs and interests of the coastal states on the one hand, and declared international principles for the sharing of the ocean resources by all states, whether coastal or landlocked [4] on the other hand. In order to perform the double function the Draft directs that that the coastal states shall, first, enter into regional arrangements for purposes of regulation and management of resource use within the zone. Secondly, that the coastal states shall, by entering into multilateral and bilateral agreements, permit land-locked states to exploit resources within the economic zone.

The analysis in the present paper undertakes to examine the implications of the Kenya Draft Articles, particularly with reference to the allocation of rights and obligations of the coastal states vis-a-vis the land-locked states, over the economic resources of the economic zone. A further examinations shall be done of the rights and obligations of other foreign users of the area for economic and non-economic purposes. In the final section we shall examine the trends in the development of international support for the concept of exclusive economic zone which, at the time of this writing, seems to have been accepted by an overwhelming majority of the delegations to the Third

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1. U.N. Document A/AC.138/SC.II/SR.8 of 3 August, 1971, p. 54.

2. The Concept of Patrimonial Sea defined by the Specialized Conference of Caribean Countries at Santo Domingo de Guzman in June, 1972, is a significant concept in the regard. In actual fact, there is no difference between the two. Repeated mention shall be made of this concept in the paper. For complete text see International Legal Materials, Volume XI, No. 4, July, 1972, pp. 892-3. See also infra note 51.

3. Originally issued on August 7, 1972 as AC/AC,138/SCII/L 10. Reproduced in International Legal Materials, Vol. XII, No. 1, January, 1973, pp. 33-35.

4. "Declaration of Principals Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof. Beyond the Limits of National Jurisdiction". United Nations General Assembly Resolution 2749 (XXV) of 17 December 1970, paragraphs 1, 5 and 7. Reproduced in International Legal Materials, Vol. X, No. 1, January, 1971, p. 9.

United Nations Conference on the Law of the Sea (UNCLOS III).

2. DELIMITATION OF THE ZONE

Article I of the Kenya Draft Articles presumes, as a basic fact, that the territoiral sea of the coastal states is limited to 12 nautical miles, from appropriate baselines. Then the article proceeds to declare that all states have a right to determine the limits of their jurisdiction over the seas adjacent to their coasts and beyond the territorial sea "in accordance with criteria which take their own geographical, geological, economic and national security factors". It is within the area so determined that the coastal state shall exercise preferential interests and is called Economic Zone.

Although the article allows for differential criteria, namely: geographical, geological, ecological and national security factors, freedom to determine the extent of applicability of the criteria is not open to the states. For instance, a coastal state may consider that her economic interests over fisheries should extend to three hundred miles while her national security interests extend to one hundred miles. Or to take a more topical issue, the coastal state which is geologically favoured with a continental shelf which extends to six hundred miles may desire that it assumes exclusive jurisdiction over all resources of the entire shelf for economic, ecological, biological or geographic reasons. However, these claims are not open as Article I may seem to suggest.

Article VII of the Draft prescribes that "The Economic Zone shall not in any case exceed 200 nautical miles, measured from the baselines for determining territorial sea." What is missing, however, is the reason why all the geographical, geological, biological, ecological, economic and national security interests which exceed the 200 nautical miles must be forsaken. Or stated differently, why is the 200 miles to be the maximum distance for the protection of those national interests and not a smaller limitation such as, say, fifty miles which was earlier claimed by Iceland?[5]

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5. Iceland and the Law of the Sea (Reykjavik: The Government of Iceland, 1972), p. 9.

The criteria which the coastal states choose for delimitation of the economic zone must be "reasonable" by certain generalizable standards in order that such a proposal can be universally acceptable. Yet difficulty exists as to whether other states can easily appreciate an individual country's own needs and interests which influence choice of a particular criterion for delimitation of the area of exclusive interests. To give an example, Iceland based her 1972 decision to extend fishery zones on factors similar to those enumerated by Kenya. The Icelandic government said, "The coastal state should itself determine the extent of its coastal jurisdiction over fisheries on the basis of relevant local considerations. In Iceland these considerations would coincide with the continental shelf area, which, e.g., at depth of 400 meters would be approximately 50 - 70 miles from the coast."[6] She decided on a fifty mile fishery zone.

The point of note here is that even in the case of Iceland where the government has demonstrated that the coastal fisheries' products constituted approximately 81.8% of the nation's export trade thus being the conditio sine qua non for national economy, the fifty miles limit adopted by the February 15, 1972 "Resolution of the Althing on Fishery Jurisdiction"[7] proved to be unacceptable to countries which traditionally fished in the "adjacent" seas, notably, the United Kingdom, Belgium and the Federal Republic of Germany. As soon as Iceland took the decision, Her Majesty's Government moved swiftly to register an Application with the International Court of Justice instituting proceedings against the decision of Reykjavik to exclude all foreign fishermen from the fifty miles Zone.[8]

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6. Fisheries Jurisdiction in Iceland (Reykjavik: Ministry of Foreign Affairs, February, 1972) p. 8.

7. The Icelandic Althing (Parliament) resolved unanimously that effective not later than September 1, 1972, the state would extend fisheries jurisdiction to 50 miles. For text of the Resolution, see International Legal Materials, Vol. XI, No. 3, May, 1972, pp. 643-4.

8. International Court of Justice: Application Instituting Proceedings (filed in Registry of the Court on 14 April, 1972). "Fishing Jurisdiction" (United Kingdom of Great Britain and Northern Ireland v. Iceland).

Note that in a later judgement on merits the ICJ ruled that in view of the previous treaty arrangements between the two countries the Iceland legislation was not opposable to Britain. In the opinion of the Court Iceland was under obligation to grant preferential treatment, based on equity, to the applicant. See judgement delivered on 25 July 1974 in I.C.J. Reports 1974 especially paras. 67 et. seq. The Court did not rule on the legality of the Icelandic measure under general international law, an evasion which is strongly criticized by Judge Ignacio-Pinto in his dissenting opinion.

This controversy over the Icelandic fisheries field is particularly relevant to our study because it is recent; it is based on fairly obvious economic interests of Iceland and also because the distance fifty miles is fairly small considering how wide the ocean area is from Iceland and the coasts of the contending parties.

In the case of the Kenya proposal, the head of the delegation to the summer, 1971 session of the U.N. Committee on Sea Bed attempted, rather unsatisfactorily, to justify why his delegation chose 200 miles for delimitation of the area. In an intervention, F.X. Njenga said that "it was the view of the Kenya delegation that the greatest breadth of the continental shelf, anywhere in the world, at 200 meters, should be the limit of national jurisdiction to be applied uniformly for all States irrespective of the superjacent waters of the coastal state."[9] He added, in the same statement, that in the opinion of his delegation, that breadth would give a distance of about 200 nautical miles from the baselines for measuring territorial sea. But how does this estimate comport with other opinions on the width of continental shelves? Is it reasonable to suggest that at 200 meters isobath the greatest breadth of the continental shelf is 200 nautical miles?

K.O. Emery, Senior Scientist and an oceanographer from Woods Hole Oceanographic Institution, concurs with the United States Commission on Marine Science, Engineering and Resources athat the average width at 200 meters depth is only 50 nautical miles.[10] Emery further reports the Commission's estimate that at the depth of 2,500 meters isobath, which would include up to the base of the continental slope, the average width is only 100 nautical miles.[11] On the latter relationship other scholars have differed rather strongly. Edward D. Brown from University College, London, estimates

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9. U.N. Document A/AC.138/SC.I/SR.8 of 27 July, 1971, p. 38.

10. K.O. Emery, "An Oceanographer's View of the Law of the Sea" in Lewis M. Alexander (ed.), The Law of the Sea: National Policy Recommendations (Kingston: University of Rhode Island. Fourth Annual Proceedings of Law of the Sea Institute), March, 1970, p. 220.

11. Ibid.

that the 2,500-meter isobath is closer to 200 nautical miles than to 100 nautical miles.[12] On this he finds enthusiastic concurrence in Luke W. Finlay.[13] However, Finlay seems to applaoud Brown's estimate for a completely different reason. He recognizes that several Latin American countries have presented a fait accompli by establishing their claim over 200 miles of the sea and that they would not be persuaded to roll back in order to join in any international consensus for a lesser distance. That argument, of course, does not link the national claim for uniform width of 200 nautical miles with any rights which a country may claim over the continental shelf as a natural prolongation of her continental land mass.

The Latin American states: Chile, Peru and Ecuador, the forerunners in the establishment of the 200 miles tradition in maritime claims, have not attempted to make any such connections, simply because they have a negligible width of continental shelf. On the other hand, the eastern coast countries of Latin America, such as Argentina and Brazil, which have broad shelf area have not made that connection either. Argentina has continental shelf which extends to Falkland Island, about six hundred miles from her coast; Brazil has continental shelf about 350 miles at its widest point.[14]

Kenya cannot base the 200 mile Economic Zone on the width of her continental shelf, nor on the shelves of either of her coastal neighbours, Somali and Tanzania. Appendix A to this paper shows an estimated profile of the continental shelf on the east coast of Africa from Cape Guardafui to the mouth of the River Ruvuma, and nowhere along that coast does the shelf exceed one hundred kilometers, about 63 nautical miles. The average breadth along the Kenya coast is less than twenty kilometers -- about thirteen miles.

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12. E.D. Brown. "A Comment on the Proposal Legal-Political Framework for the Development of Submarine Mineral Resources" in Law of the Sea: National Policy Recommendations, op.cit., p. 44.

13. Luke W. Finlay, "A Critique" in Law of the Sea: National Policy Recommendations, page 52.

14. I am indebted to K.O. Emery for these estimates. Neither Argentina nor Brazil has published exactly the width of their continental shelves. However, estimates can be made from bathymetric maps. One of the best maps available for studies in law of the sea is the Boundaries Separate Seabed Area of Sharply Contrasting Topographic Gradients, prepared by the Office of the Geographer, Department of State, Washington, D.C. Serio No. 512523 11-71.

Available evidence does not seem to connect the 200 miles isobath to 200 nautical miles as the average or greatest breadth. The justification of the choice of 200 miles as the width of Economic Zone must therefore be sought elsewhere. Indeed, the 200 miles figure is a widely adopted measure particularly in Latin America where no attempt has been made to justify it as a criterion for delimitation of coastal jurisdiction. As Luke Finlay pointed out in the statement quoted above, most states realize that Latin American states will not, accept a roll-back from the present claims. Yet it is inadequate to conclude that all the states therefore should bend their arguments to fit the terms of the 200 miles-club. Perhaps that is the case, in fact.

One of the strongest supporters of limited coastal state jurisdiction was Ambassador Arvid Pardo who himself initiated the current sea-bed debates at the United Nations in 1967. What is striking is the change in Pardo's position to accept and justify the 200 nautical miles for coastal states as "national ocean a space".[15]

> ...the majority of coastal States cannot extend their jurisdiction beyond 230 to 270 miles from the coast and that claims of coastal State jurisdiction beyond 200 miles from the coast are rare and usually of an indirect nature. Thus the maximum limit of coastal state jurisdiction which need be suggested is somewhere between 200 and 270 miles from the coast. Taking into account the general interest of the international community to keep the widest possible area of the ocean space open to the non-discriminatory access of all, and the fact that some coastal States have already proclaimed that their jurisdiction extends to the 200 miles from their coasts, my delegation has come to the reluctant conclusion that, to avoid prolonged debate and haggling, it is necessary to establish a distance of 200 miles from the nearest coast as the outer limit of the coastal State jurisdiction in ocean space.[16]

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15. U.N. Document A/AC.138/53, August, 1971. Articles 36-38 and 56-61. Reproduced in the General Assembly Official Records: Twenty-Sixth Session. Supplement No. 21, (A/8421), pp. 105-193.

16. Quoted in McGill Law Journal (Montreal), Volume 17, No. 4, 1971, pp. 634-5; emphasis added.

Ambassador Pardo's statement underlines the point already made above: that proponents of the 200 mile limit are frankly influenced in their choice by the fact that several states have claimed jurisdiction to that distance and they envisage no chances that those states would roll-back to lesser distance. Further, the point is made that the 200 miles limit could be exceeded by a large number of coastal states and that because of national interests the states would ordinarily opt for greater distances. However, because of the general interest of the international community which the states have supported by the repetitious United Nations resolutions, coastal states are shy to exceed the 200 miles limit.[17] Thirdly, although there is room for coastal states to extend their jurisdiction out to 270 miles they do not have to claim the maximum feasible distance. With respect to certain international interests, coastal states do recognize a necessity, if not a duty, to forego the benefit which might accrue from the wider areas of national jurisdiction.

From the foregoing it seems plausible to conclude that prevailing national interests and established claims are responsible for the selection of 200 nautical miles for delineation of national economic jurisdiction in the ocean space. What Njenga suggested as a general alignment of 200 meters isobath and the 200 nautical miles from the coast is not supported by scientific opinions already surveyed. Moreover, there is no indication that even if the 200 miles coincided with the 200 meters the states would be inclined to accept claims extended by the distance criterion. On this point the Icelandic fisheries controversy is illustrative.

Although the outer limit continental shelf of Iceland at depth of 400 meters averages 50 to 70 miles[18] from the coast and although that country selected to delimit their jurisdiction at 50 miles that limited distance was not acceptable to Belgium, Great Britain and countries.[19] The complaint against Iceland was based on

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17. U.N. General Assembly Resolution 2749 (XXV) of 17 December 1970 gives a comprehensive summary of the principles which the members adopted as on sea-bed and ocean floor beyond the limits of national jurisdiction.

18. Fisheries Jurisdiction in Iceland, op.cit., pp. 18 and 32.

19. The I.C.J. issued orders regarding interim measures of protection and the question of Court's jurisdiction regarding applications of Great Britain and Germany on August 17 and 18, 1972. See International Legal Materials, Vol. XI, No. 5, September, 1972.

the foreign countries' traditional fishing interests to fish within fifty miles of Iceland's coast e·en though the estimated distance between Iceland and the British Isles is over 350 nautical miles.

The position adopted by Britain and Germany over Iceland's action suggest another difficulty for the Kenya scheme. Njenga had suggested to the U.N. Committee on Sea Bed that the distance to be adopted for Economic Zone "should be unfirom for all countries", with adjustments made only in the case of archipelagoes.[20] Now, if fifty miles is alreadyin difficulty of acceptance it must be wondered in how many cases the proposal for exclusive Economic Zone will be easily acceptable. Definitely, the issue regarding the effect of the extension of Economic Zone over existing fishery agreements should have been covered in the Draft Articles. It will be an issue in East African countries, for instance, where the plans for termination or phasing out process of the Indo-Pacific Fisheries Council shall influence efficacy of the new regime. None of the African States is a party to the Council's 1961 Agreement[21] whose area of operation is Indian and Pacific Ocean.

To give effect to the criteria chosen by coastal states for an economic zone the contending national interests must be considered and included in the negotiations. Both validity and efficacy of legislative decisions by coastal states regarding the Economic Zone will depend on acceptance by states which have otherwise enjoyed the resources within the "adjacent" sea.

3. POWERS OF THE COASTAL STATES WITHIN THE ECONOMIC ZONE

Article II of the Draft Articles provides that the primary benefit of the Economic Zone shall be for the primary benefit of the people of the coastal state. To ensure that the primary goal so provided is met the coastal state "shall exercise sovereign rights over the natural resources for the purpose of exploration and exploitation". (Emphasis added.) Further, the article provides that

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20. U.N. Document A/AC. 138/SC. I/SR.8 of 27 July, 1971, p. 38.

21. 418 United Nations Treaty Series 1961 (348).
Members of the IPFC are: France, Philippines, U.S.A., Burma, Ceylon (now Sri Lanka), Australia, Cambodia, Indonesia, Thailand, India, Netherlands, China (Taiwan), U.K., Pakistan, Korea, Japan, New Zealand and Vietnam. The Original Agreement was concluded in 1948; see 120 UNTS 1952 (59). It was revised in 1961.

"within the zone they (coastal states) shall have exclusive jurisdiction for the purposes of control, regulation and exploitation" of such resources of the zone and to take measures to prevent and control pollution.

The subjects of the rights conferred on the coastal states are only natural resources: living and non-living. Exceptions which could be obtained from the Economic Zone must be very few, the notable examples are, perhaps, sunken ships or such objects when recovered. What may be subject to dispute are archeological artifacts whose origins are doubtful considering that ocean currents are capable of transporting such objects from long distances over an extended period.

What is even more important in the Kenya scheme is the fact that the coastal states shall enjoy sovereign rights and exclusive jurisdiction over all the natural resources of the economic zone. In juridical terms, exlcusive jurisdiction refers to such jurisdiction as is exercised only by the party upon whom it is conferred. That is, they are powers the exercise of which are not shared with any other state. Such competence exercised for the purpose of control, regulation and exploitation of the natural resources of the Zone and for conservation and pollution control as provided by Article II is simple and conclusive.[22] Just to draw an analogy from the opinion of the International Court of Justice in the North Sea Continental Shelf Cases, where the rights are "exclusive" the coastal state may choose whether or not it shall explore or exploit the resources appertaining to it and "that is its own affair, but no one else may do so without its express consent".[23]

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22. See similar emphasis by the Court in the Fisheries Case, I.C.J. Reports (1951), p. 132. Ecuador, whose 200 miles claim has not been recognized by the United States, has repeately arrested and held U.S. fishing vessels. That is the best known of enforcement cases of unilateral extension of coastal jurisdiction, now a matter of public record.

23. North Sea Continental Shelf Cases "Judgement", I.C.J.Reports, 1969, p. 22.

No problem is present in international law if the coastal state does not choose to explore and/or exploit the resources within her jurisdiction. However, where the exercise of the coastal state powers involves limitation on other states, for instance, in order to prevent and control pollution, serious controversies can be averted only if the standards applied are internationally accepted. Or where such limitations involve actual exploitation of resources, the conflicts may resemble the Icelandic fisheries issue discussed above.

There are subjects of potential interaction in maritime activities which may lead to serious conflicts. For example, aquaculture versus dredging; general waste disposal versus biological conservation; dredging versus shell-fishing; dredging versus drilling which may be classified as mutually exclusive.[24]

Where the interactions are perceived to be strong, or very bad, or mutually exclusive, the Kenya Draft Articles empower the coastal state to legislate in order to control and prevent adverse results within the 200 miles of Economic Zone. This is similar to what the Canadian Government decided when in 1970 she declared an "anti-pollution" zone up to 100 nautical miles from her Arctic coast, imposed penalties and civil liabilities for violations and authorized comprehensive regulation and inspection of vessels to prevent pollution.[25]

The United States reacted publicly and sharply, criticing Canada for acting unilaterally instead of pursuing change by international agreement.[26] Was it the fact that the action of Canada was unilateral that infuriated her neighbour or was it the substantive action which the United States considered a real threat to her interests in the Arctic Ocean area? Most probably, both hypotheses contributed toward the United States' attitude; nevertheless, the Canadian authorities argued that they saw no prospect for satisfactory

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24. See for illustrations, "Uses of the Sea". A Study Prepared by the U.N. Secretary-General, U.N. Doc. E/5120 dated 28 April, 1972, p. 35.

25. Text of the legislation is reprinted in International Legal Materials, Vol. IX, 1970, p. 543. See also comment by Lous Henkin, "Artic Anti-Pollution: Does Canada Make -- or Break -- International Law" in the American Journal of International Law, Vol. 65, No. 1, January 1971, pp. 131-136.

26. See American Journal of International Law, op.cit., p. 131,

agreement through an international machinery,[27] and so decided on the unilateral action.

Indeed, the chances are that the Unites States would most probably have been adverse to the Canadian idea if the subject had been brought before an international forum. And that is the problem which the Kenya proposal faces at the forthcoming international negotiations. Historically, the United States has based objection to forms of control beyond limited territorial sea on the theorem of "creeping jurisdiction", developed by the U.S. Department of Defence.[28] The theory maintains that a claim for functional control of ocean space beyond national jurisdiction leads to successive greater national claims in those area. The example often cited to support the contention is Peru which successivlly established competence: "200 miles fishing conservation zone (1947), a 200 mile petroleum concession area (1952), a 200 mile area of exclusive sovereignty (1952), a 200 mile coastal air space zone (1965), and finally a 200 mile area of 'Dominio' (1969)."[29]

The significant point in the United States' position on this matter was made by Leigh Ratiner, then Chairman of Defence Advisory Group on Law of the Sea (U.S. Department of Defence) when he expressed preference for who should control the oceans:

> With respect to the question of what might be termed creeping jurisdiction from international authority into the waters and possible air space involved, I think that underlying our thinking in the Department of Defence is a fundamental policy decision -- we would prefer to trust the the international community as a collective, than the coastal States acting individually. There are risks that the international community will attempt to control the oceans for all purposes, and the air space above. We think these risks are less than the risks of coastal State control over the same areas, as time goes by.[30]

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27. Ibid.

28. See Robert B. Krueger, "An Evaluation of United States Ocean Policy" in McGill Law Journal, Volume 17, No. 4, 1971, p. 652.

29. Ibid.

30. Lewis M. Alexander (ed.) The United Nations and Ocean Management. Proceedings of the Fifth Annual Conference of the Law of the Sea Institute, June 15-19, 1970. (Kingston: University of Rhode Island, January, 1971), p. 331. Mr. Ratiner has since moved to the U.S. Department of Interior where he is still deeply involved with establishment of the United States position.

This statement is the basis of the U.S. objection to off-shore controls by coastal States, such as the Canadian action, and is likely to be a source of the United States' objection to the powers which the Draft Articles confer on the coastal States over the Economic Zone. The point is that the provision for exclusive jurisdiction for purposes of control and regulation of resources use, and the conservation measures, shall almost inevitably interfere with the activities of certain maritime powers and they prefer not to leave the exercise of such powers to the coastal states.

As may be evident from illustrations mentioned above the exercise of the powers under Article II cannot be accomplished "without prejudice to the exercise of freedom of navigation, and freedom to lay submarine cables and pipelines" as provided by Article III. The present laissez-faire regime of the seas permits any state to exercise almost unlimited freedom in these activities,beyond the limits of national jurisdiction. And that is the state of the existing international law: there is no accepted limit of national jurisdiction beyond the territorial sea and the contiguous some extending outward to 12 miles.[31] The establishment of the Economic Zone to 200 miles, far beyond territorial sea with the powers conferred on coastal states by the Draft Articles, will, in practice, entail abridgement of these freedoms. To include the terms of Article II alongside with Article III in the instrument is an obvious attempt to compromise disparate and contradictory interests.

The second aspect of the powers conferred on coastal states over the Zone is that of exercise of sovereign rights over the natural resources. These rights are perfectly consistent with those regarding exclusive jurisdiction for purposes of control just discussed. In fact, the two aspects of the powers are complementary. The near-absolute notion in exclusive jurisdiction is necessary for the protection and preservation of the resources over which a state has sovereign rights.

Valid as the foregoing statements might be they still beg the question until we fully analyze what the exercise of sovereignty over natural resources, as provided in the Draft Articles, implies.

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31. Art. 24 (2) of the 1958 Geneva Convention on the Territorial and the Cortiguous Zone. 516 UNTS 205 (1964).

On this, the standard international document is the United Nations General Assembly Resolution on Permanent Sovereignty Over Natural Resources adopted on December 14, 1962.[32] In substance, the resolution affirmed the principle of national ownership of natural resources within an individual territory and the rights of all states to freely dispose of their natural resources and wealth. That is as much as right as any sovereign state can have within the national jurisdiction. But is this any different from the sovereign rights which a coastal state can exercise by virtue of the provisions of the Kenya Draft Articles, within the Exonomic Zone? Kenya makes it clear that the coastal state shall exercise both sovereign rights over the resources and exclusive jurisdiction for purposes of exploration and exploitation thereof. No other meaning is provided in the draft and no clue that the meaning deviates from that provided in the United Nations General Assembly Resolution on Permanent Sovereignty.

A new and more direct resolution was adopted by the United Nations General Assembly at its twenty-seventh session.[33] This new resolution, which recalled the 1962 affirmations, among others, "reaffirmed" under paragraph (1) "the rights of states to permanent sovereignty over all their natural resources, on land within their international boundaries, as well as those found in the sea-bed and the subsoil thereof within their national jurisdiction and in the superjacent waters". In the scheme of our study the Zone proposed by Kenya is placed by the Draft Articles under national jurisdiction within the meaning of the General Assembly Resolution just quoted. This amounts to actual assimilation of the Zone into the territorial body of the claiming state, at least for purposes of the natural resources and the accompanying provision for regulation and management. One might even argue that the land-locked states do not have any more right to the resources of the Zone than any state has to the land-based resources of any other state, coastal or land-locked. This point must be borne in mind as the next section focuses on the rights of other states to resources of the Zone.

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32. U.N. General Assembly Resolution 1803 (XVII) in U.N. G.A.O.R. Supplement No. 17 (A/521) Seventeenth Session, pp. 15-16.

33. U.N. General Assembly Resolution 3016 (XXVII) "Permanent Sovereignty Over Natural Resources of Developing Countries" adopted on December 18, 1972 (by votes 102 in favor, none against and 22 abstaining). Reproduced in International Legal Materials, January, 1973, pp. 226-7.

4. RIGHTS AND OBLIGATIONS OF THIRD STATES WITHIN THE ZONE

There are four categories of third party interests that may be considered in the question of access to the resources of the Economic Zone. First are the adjacent coastal states which may, by virtue of proximity, claim some of the resources the distribution of which spreads across territorial boundaries. The point will be particularly pertinent over migratory coastal fishery resources, which may require joint management and control for purposes of exploitation. Kenya, Somalia and Tanzania, for instance, could adopt regional arrangements for fishing of coastal species and thus avoid the conflicts which resulted in arrest of Kenya fishermen in the Pemba Channel. in 1970.[34] Regarding fisheries in that area, therefore, the boundary in the Channel would have had only incidental significance. To a lesser extent, there may be cases of mineral resources such as hydrocarbons contained in veins which cross national boundaries in the sea-bed or continental shelf. Without agreements for joint management in such areas potentials for conflict are real. In the Red Sea, for instance the Kingdom of Saudi Arabia issued a Decree to the effect that she "owns all the hydrocarbon materials and minerals existing in the strata of the sea-bed ajacent" to that country's continental shelf.[35] But the Red Sea mineral resources also now include the recently discovered and valuable hot brines settled in the Central Rift.[36]

Strictly speaking, the issue would not be one of rights, per se, if such coastal states, by agreement, design a pattern for joint exploitation of the resources. The issue will be one of joint management and sharing of the resources and an exercise of sovereign rights over "shared" resources rather than alienation of the sovereinty. As a matter of fact, the idea of regional arrangements which the Draft Articles allude to in Articles VI and VII could be deployed in order to facilitate establishment of standards for conservation and utilization of such resources.

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34. (East African Standard - September 19, 23 and 24; October 5 and 6, 1970.)

35. Royal Decree Number M-27 dated September 7, 1388 Hegria reprinted in International Legal Materials, Volume, No. 3, May, 1969, p. 606. Section 3 provides for sharing with neighbouring governments which have rights recognized by the government of the Saudi Arabia Kingdom. Almost the whole of the Red Sea is underlain with Continental Shelf.

36. For a recent report on the deposits see David A. Ross, "Red Sea Hot Brines Areas: Revisited". Science, Vol 175, pp. 1455-1457 of March 31, 1972. Dr. Ross has told this writer that he has done one study of the sediments at the request of Saudi Arabia. In which case, Sudan and Eritrea on the opposite shore would have to convice Saudi a Arabia of the legitimacy of their claims.

The second category of third state interests are those of foreign enterprises which desire participation in exploitation and exploration of the resources of the Zone. Examples in this category are the Deep Sea Ventures from the Unites States, the state-owned fishing enterprises from the Soviet Union or Japanese long-distance fishermen. Article V provides that they "may obtain permission from the coastal state to exploit the resources of the Zone" and only on such "terms as may be laid down and in conformity with laws and regulations of the coastal state." Ultimately, this scheme confers no more rights on a foreign state or person to utilize resources of the Zone than current provisions of international law confers on a private enterpriser investing on land-based operations in a foreign country.[37]

It is perhaps no mere coincidence that at the time of the development of the proposals on extended preferential zones for coastal states the United Nations General Assembly should have adopted the Reolution 3016 (XXVII) referred to above.[38] Both efforts point to a compact assimilation of the resources of the Economic Zone and to have no difference in international law as to the powers a coastal state has to dispose of the natural resources for the primary benefit of her own citizens as provided by the General Assembly resolution, 1803 (XVII). Accordingly, we find that there are no unique rights possessed by this category of parties, either directly or indirectly, to the resources of the Zone.

The third category of third states are the land-locked countries within the African Continent. What rights would they possibly have to

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37. In the introductory summary to the "Report of the Secretary General on Permanent Sovereignty Over Natural Resources" it is stated that the exercise encompasses "not only the formal rights of possession of those resources and freedom to decide on the manner in which they shall be exploited and marketed, but also the capability to exploit and market them so that the people of the state concerned may benefit effectively from them". See the Exercise of Permanent Sovereignty Over Natural Resources and the Use of Foreign Capital and Technology for Their Exploitation. (A/18058 of 14 September 1970), p. 7.

38. Ibid. See also paragraph (3) of Resolution 3016 (XXVII) which "Declares that actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States engaged in the change of their internal structure or in the exercise of sovereign rights over their natural resources, both on land and in their coastal waters, are in violation of the Charter and of the Declaration" of Principles of International Law Concerning Friendly Relations among States contained in Resolution 2625 (XXV) (emphasis added).

resources of a Zone within which coastal states exercise sovereign rights and exclusive jurisdiction for purposes of control of exploitation and exploration of the resources? Underlying this question is the assumption based on the principles, declared by the majority of states, that resources beyond limits of national jurisdiction should be utilized with particular consideration for the interests of developing countries whether coastal or land-locked.[39] Accordingly, it was considered that in case of negotiation for extension of competence of coastal states a special formula needed to be sought to relieve the land-locked states of the disadvantage imposed on them by geography.

The Kenya delegate who introduced the subject of Economic zone explained to the United Nations Committee on Sea-Bed that

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39. See U.N. General Assembly Resolution 2467 (XXIII) of 21 December 1968, 2750 (XXV) of 17 December 1970, and 2749 (XXV) of 17 December 1970. The assumptions at the time of adoption of these resolutions did not include the extended preferential zones such as 200 miles proposed by Kenya. Accordingly, by the so-called "Moratorium Resolution", UNGA Resolution 2574 (D) of December 15, 1969, the General Assembly resolved that

> "(a) States and persons, physical or juridical are bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor and the sub-soil thereof beyond the limits of national jurisdiction.
>
> (b) No claim to any part of the area or its resources shall be recognized"

-- until an international regime is established by international agreement to regulate and administer use of the area for the benefit of all mankind. Resolutiin is reprinted in International Legal Materials, Vol. IX, No. 1, January 1970, p. 422. The general inclination was still in favour of a limited Territorial Sea and Contiguous Zone a la 1958 Conventions where 12 nautical miles was the limit. The rest of the area was to be res communis ominum. On these discussions see Josef L. Kunz, "Continental Shelf and International Law: Confusion and Abuse" in American Journal of International Law, Vol. 4, July, 1955, p. 829; and D.A. Kamat, "Recent Developments in the Law Relating to the Sea Bed", Indian Journal of International Law, Vol. 2, No. 1, 1972, pp. 9-19; and Wolfgang Friedmann, "Selden Redivivus-- Towards a Partition of the Seas?" in American Journal of International Law, Vol. 65, No. 5, October, 1971, pp. 757-770.

> The solution of the land-locked countries' problem must be found within a regional framework, and his delegation was prepared to negotiate with other African delegations, to work out an acceptable formula.[40]

Admittedly, the question of sharing of the resources would be answered by resort to regional arrangements. Indeed, as Article VI of the Draft Articles provides, rights for land-locked, near land-locked or shelf-locked countries "shall be embodied in multilateral or regional or bilateral agreements." But what are the rights of third states to resources over which the coastal state exercises sovereign rights? The bilateral or regional agreements are to be concluded under terms provided by these Draft Articles. And the Articles, as we have seen, confer on the coastal state exclusive jurisdiction for purposes of control and exploitation of the resources. In which case what the land-locked countries may have are only privileges and not rights.

Article VI specifies the conditions under which the coastal state can permit a land-locked state to exploit resources of the Zone. For instance, the coastal state must be satisfied that the resources to be used by the land-locked state are "effectively controlled by their national capital and personnel." First of all, this could not be ascertained, even if that were possible, without acceptance of a subordinate status of the applying state. Secondly, the idea of "effective control" may be difficult to ascertain particularly in a field as technologically complex as exploitation of marine resources.[41] In final analysis, therefore, the industrialized countries from any part of the world may have a better chance of access to resources of the Zone than land-locked states within the continent. The scheme of Economic Zone does not require that any part of the proceeds from the Zone be transferred to an international treasury which would ensure that the land-locked states benefit too.

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40. Recorded intervention by Njenga of Kenya in U.N. Document A/AC.138/SC.I/SR.8 of 27 July 1971, p. 38.

41. See Permanent Sovereignty Over Natural Resources; note 33, page 8, where it is correctly recognized that technical knowhow for exploitation of petroleum and mineral resources has been developed primarily in industrialized countries. On technological limitations regarding fisheries, see Gulkian, W. J. and van den Hazel, N.W., Reconnaissance Survey and Fishery Harbours and Landing Places. (Rome: Food and Agricultural Organization of the U.N. and the United Nations Development Program, March, 1971), pp. 7-8.

The industrialized countries which may participate in exploitation of the area would pay fees to the coastal state.

There is nothing in these discussions to requires us to take seriously the statement reported to have been made by Njenga, on behalf of the Kenya delegation, to the U.N. Committee on Sea-Bed that "His country was prepared to give nationals of the 14 land-locked countries of Africa, within regional or bilateral agreements, the same treatment that it gave to its own nationals within the limits of its national jurisdiction."[42] This is not consistent with the facts regarding the exercise of national sovereignty over natural resources and exclusive jurisdiction of the coastal state as already analyzed.

Perhaps in an attempt to modify that 1971 position of the Kenya delegates Article VI of the Draft Statute refers only "to the neighbouring developing land-locked, near land-locked[43] and countries with small shelf" which would be permitted to invest in the enterprises within the zone. But just what constitutes a neighbouring state? Is Zaire, a near land-locked state, whose area occupies the entire central Africa, considered neighbour to the countries on the eastern coast of Africa or on the West coast? What about the victims of political warfare in southern Africa such as Lesotho, Botswana, Swaziland, all cut off from the sea by South Africa: whose neighbour are they? The Draft Articles give no clue as to what the limitation of "neighbourhood" shall be and this leaves moot the question of whether Botswana, Lesotho and Swaziland would be left at the mercy of South Africa or if the more fortunate northern states shall consider them neighbours for purposes of a resource sharing in the Zone.

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42. U.N. Document A/AC.138/SC.I/SR.8 dated 27 July, 1971, p. 38.

43. By near land-locked states is meant countries with almost no notable coastline at all, e.g. Zaire, a massive country, but with only 22 nautical miles of coastline. I am indebted to Pemmaraju Sreenivasa Rao of Woods Hole Oceanographic Institution for this point, which, he tells me, he learned during the African States Regional Seminar on Law of the Sea at Yaounde in June, 1972. While land-locked states are defined as "non-coastal", "continental" or "inland" as opposed to coastal, the "shelf-locked" states are coastal but whose legal continental shelf is cut-off from the sea-bed beyond the limits of national jurisdiction by the continental shelf of one or more other states. For a detailed discussion on these disinctions, see Vladimir Ibler, "The Interests of Shelf-Locked States and the Proposed Development of the Law of the Sea," Indian Journal of International Law, Vol. II, 1971, p. 389.

Moreover, Article XI merely provides that "(n)o territory under foreign domination and control shall be entitled to establish an Economic Zone" but it does not provide for how the neighbouring, land-locked, near land-locked or shelf-locked states shall have access to the resources within the 200 miles of the coasts of those foreign dominated territories. For instance, how could Zaire to exploit the resources off the coast of the Portuguese dominated Angola?[44]

The fourth, and final, category of parties which might be interested in resources of the Economic Zone are state parties to a convention on the off-shore resources before the extension of the proposed jurisdiction. In the Indian Ocean, for example, there is the still-in-force Indo-Pacific Fisheries Council to which none of the eastern African states is a party.[45] The Draft Articles make no mention of this sticky issue, nor does it address itself to the issue of states which claim "historic" or "traditional" rights over the resources of the area to be covered by the Zone. Generally, it is understood that the new states reject the notion of historic or traditional rights because the implications are redolent of cononial domination.

Nevertheless, in order to dispel the validity of an agreement still in force in favour of an up-to-date convention because of a radical change in circumstances it is desirable that the conditions be unequivocally stated. Otherwise the members of the Indo-Pacific Fishery Council, such as Japan and China (Taiwan), may simply choose to ignore the new proposal and consequently jeopardize the efficacy of the new regime by continued fishing operations off the coasts and within the Zone.

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44. Countries like Angola, Mozambique and the Seychelles were easily distinguishable as foreign dominated. In the cases like Christmas Island, just south of Indonesia's Java but "possessed" by Australia the distinction becomes more difficult. But on African continent the definition gets into muddy waters of politics if South Africa is recognized as non-foreign dominated because that implies legitimacy to the authority of the Smith Regime in Rhodesia. South African Case of internalized colonialism . deserves an attack as a colonial regime in its own right.

45. See note 21 above.

One approach for handling the operations of such long distance fishermen is, I suggest, by allowing a gradual phasing out of the activities so that, say, after two years they cease to fish within the Zone completely. This approach can be followed with or without special fees paid to the coastal state as may be agreed upon.

By the second approach, instead of expelling the foreign fishermen, special fishing agreements can be entered into such as Kenya and Tanzania have done with Japan for joint enterprises. By now, Kenya is aware of her profits from Kenya Fishing Industries, ltd., composed of two Japanese firms: Ataka and Co., Ltd. and Taiyo Fishing Company, Ltd., together with the Kenya Maritime Company, and the State agency, I.C.D.C.[46] By this method the foreign fishermen remain in operation but as foreign investors under ordinary controls and with the security of tenure in accordance with international law and municipal law of the coastal state.

In certain cases foreign interests may be directed to stop operations within the Zone and withdraw vessels as soon as the extension is decided upon, either unilaterally or by international agreement. An analogous action was taken by South Africa in 1963 when the government proclaimed its authority to control fishing within 12 miles off her coast and the coast of South West Africa.[47] South Africa did not recognize any traditional fishing privileges on the grounds that all the foreign participation was only of recent occurrence, i.e., since 1960-1961, and as such insufficient to constitute a claim of established tradition.

Regarding the Indian Ocean, Hayasi has reported that Japanese longline fleets started operations about 1952[48] while the Koreans and

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46. East African Standard, June 27, 1970, p. 5.

47. See David W. Windley, "International Practice Regarding Traditional Fishing Privileges of Foreign Fishermen in Zones of Extended Maritime Jurisdiction" in American Journal of International Law, Vol. 63, No. 3, July, 1969, p. 502.

48. S. Hayasi. Stock Assessment (Rome: The Food and Agricultural Organization and the United Nations Development Programme, March, 1971), p. 2.

Taiwanese fleets started exploitation of tuna in 1964.[49] In such cases the determination of what constitutes adequate historical claim may be a hard subject of policy decision and/or negotiation. Furthermore, records would have to be sought for exactly when the fishing activities commenced off the coast of the state wheich decides to terminate the participation of the long distance fishermen. The Soviet Union, a leading Indian Ocean fishing country, is not a member of the IPFC and so her case may not necessarily be determined from 1948, as the base year or the year when the Agreement first came into force.

The facts presented in the Draft Articles and those revealed by analysis in this paper reveal that sovereign rights over natural resources and exercise of jurisdiction accorded to coastal states mean absolute protecton of national interests within the Zone. Other states have no more rights than whatever they may be allowed by the coastal state.

Where third States or their nationals are permitted to carry out activities within the Zone they are under certain obligations. The second paragraph of Article II provides that "third states or their nations shall bear responsibility for damage resulting from activities within the Zone". The requirements are that they desist from creating damages such as causing pollution of the ocean environment. Or else reparations shall be required accordingly. The coastal state is empowered by Article V to "establish special regulations" by which liability for damages can be determined.[50]

5. INTERNATIONAL SUPPORT FOR THE CONCEPT OF ECONOMIC ZONE

Since its introduction into the negotiations the concept of Exclusive Economic zone has continued to gain wider interntional support as will be clear from the trends traced below.

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49. Ibid., p. 7.

50. The article refers only to damages resulting from activities within the Zone. Serious damages can be caused by activities outside the Zone and this is possible in cases of oil pollution. Several international agreements deal with these subjects, notably the "International Convention on Civil Liability for Oil Pollution Damage" done at Brussels on November 29, 1969, reprinted in International Legal Materials, Vol. IX, No. 1, January, 1970, pp. 45-67.

The first major booster was the Declaration of Santo Domingo to which reference has been made above. The concept of Patimonial Sea which was enunciated by the ten Caribbean States and Mexico at the Santo Domingo supported principles similar to those of the Economic Zone.[51] In fact, since that meeting the concept of Patimonial Sea virtually disappeared from the general lexicon of UNCLOS III with its supporters rallying behind the "Economic Zone".

The concept had so much appeal for some of the delegates that Christopher Pinto, a senior delegate from Sri Lanka advocated it for the "Group of 77".[52] The representative of the People's Republic of China gave the 200 miles economic zone unequivocal support as soon as they joined the United Nations,[53] and later their delgation to the U.N. Committee on Sea Bed submitted a proposal on exclusive Economic zone similar to the Kenya version.[54] The United States delegation submitted a proposal for an economic zone but without specifying the numerical delimitation.[55] But Argentina's proposal

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51. The concept of patimonial Sea had originally been introduced to the U.N. Committee on Sea Bed by the delegate of Venezuela in Summer 1971. See U.N. Doc. A/AC.138/SR.I64 p. 3. It was adopted as a part of the Declaration by the Specialized Conference of Caribbean Countries and Mexico at Santo Domingo de Guzman on June 7, 1972 and submitted to the U.N. Committee on Sea Bed as U.N. Doc.A/AC.138/90, reprinted in U.N. Official Records, United Nations General Assembly: Twenty-Seventh Session Suppl. 21(A/8721) p. 70 and International Legal Materials Vol. XI (1972) p. 892. Countries signing the Declaration were: Colombia, Costa Rica, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Dominican Republic, Trinidad and Tobago and Venezuela. Five countries: Borbados, El Salvador, Guyana, Jamaica and Panama participated in the Conference but did not sign the Declaration.

52. See Pinto, "Problems of Developing States and their Effects on Decisions on Law of the Sea," in Alexander (Ed.) The Law of the Sea: Needs and Interests of the Developing Countries. (Kingston, R.I.: University of Rhode Island, 1973) pp. 5, 10-11. In August 1971 Pinto had told U.N. Committee on Sea Bed that his delegation ".... considered that the figure of 200 miles suggested by the representative of Kenya might in the circumstances prove equitable and fair." See U.N. Doc.A/AC.138/SC.I/SR.II of August 2, 1971.

53. Speech reprinted in International Legal Materials Vol. XI (1972) pp. 656-659.

54. U.N. Doc.A/AC.138/SC.II/L.34 reprinted in Official Records, United Nations General Assembly: Twenty-Eighth Session Suppl. 21(A/902) Vol. III pp. 71-72.

55. U.N. Doc. A/AC.138/SC.II/L.35 reprinted in ibid p. 75.

specified a 200 miles (economic zone) measured from the baseline from which a territorial sea of 12 miles is measured.[56] Australia and Norway submitted a joint proposal supporting 200 miles economic zone but specifically reserving freedom of navigation within the zone.[57]

Within Africa the concept commanded clear support. This was indicated at the "Conclusions of the General Report of the African States Regional Seminar on Law of the Sea" held at Yaounde in June 1972.[58] Later on, Fourteen African States, including Kenya, submitted joint draft articles on economic zone identical to Kenya's original proposal.[59]

By the end of the first substantive session of UNCLOS III in August 1974 it was apparent that the majority of the delegations supported the concept of 200 miles exclusive economic zone. It was at that point that the leader of the United States delegation wrote that "with a few exceptions, economic zone proposals have been proferred by all conference groups including the United States."[60] At the end of the second substantive session of the Conference, the Second Committee whose task it was to draft the articles relating to areas

56. U.N. Doc. A/AC.138/SC.II/L.37 reprinted in ibid p. 78.

57. U.N. Doc. A/AC.138/SC.II/L.36 reprinted in ibid p. 77.

58. Submitted to the U.N. Committee on Sea Bed as A/AC.138/79 reprinted in Official Records, United Nations General Assembly: Twenty-Seventh Session. Suppl. 21 (A/8721) p. 73.

59. The other States were: Algeria, Cameroon, Ghana, Ivory Coast, Liberia, Madagascar, Mauritius, Senegal, Sierra Leone, Somalia, Sudan, Tunisia and the United Republic of Tanzania. See UN. Doc. A"AC.138/SC.II/L.40 reprinted in Official Records, United Nations General Assembly: Twenty-Eighth Session. Suppl. 21(A/9021) Vol.III p. 87.

60. John R. Stevenson and Benard H. Oxman, "The Third United Nations Conference on the Law of the Sea: The 1974 Caracas Session", American Journal of International Law. Vol. 69 (1975) p. 16.

of national jurisdiction adopted in their Single Negotiating Text an Article 46 provision that "The exclusive economic zone shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured."[61] Precisely, the same wordings were adopted in the subsequent negotiating sessions which ended in May 1976.[62]

It seems definite that with whatever may be its shortcomings and whatever might have been the reasons for various states supporting the concept of exclusive economic zone, it is now a principle over which the parties negotiating the new law of the sea have agreed. What remains to be ironed out are matters of details regarding the rights and obligations of the coastal States vis a vis third parties.[63] Whatever is the outcome of UNCLOS III, that is whether or not a treaty is finally agreed upon and signed, there is no doubt that exclusive economic zone will be adopted by coastal states which will adopt national legislations to prescribe their own general principles to guide subsequent management of access, exploration, exploitation and conservation of resources of the exclusive economic zone.

It was not clear if during the years when the concept of 200 miles economic zone was developed Kenya delegates were motivated by well-defined national policy intentions. At least to date, Kenya has only claimed a 12 miles territorial sea.[64]

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61. U.N. Doc. A/CONF.62/WP.8/Part.II 7th May 1975 also reprinted in International Legal Materials Vol. 14 (1975) pp. 710 721.

62. U.N. Doc. A/CONF.62/WP.8/Rev.I/Part II, May 6, 1976. Article 45.

63. See discussions by Okidi "Conservation and Development of Coastal and Offshore Resources in Eastern Africa: Agenda for Research" (University of Nairobi, IDS/WP 268 June 1976). pp. 8-14 to appear in Journal of East African Research and Development Vol. 6 No. 1.

64. Discussed in Okidi, Legislative Development in Kenya's Coastal and Offshore Affairs: Territorial Sea and the Continental Shelf (University of Nairobi, IDS/WP. 285 October 1976).

What would seem to be the motivating factor in the Kenya choice is found in the country's last Development. Plan.[65] According to an outline in the Plan Kenya obtained an assistance from the Food and Agricultural Organisation of the United Nations in 1962, to study thefishing potentials of the Indian Ocean along the coast. This was followed in 1966 by a special fishery commission appointed by the government to carry out feasibility study into the establishment of a Mombasa-based fishing fleet. The commission's recommendation indicated the viability of such and industry and suggested that the first phase would comprise the "introduction of 12 long liners operating 20 to 200 miles from Mombasa, where there would be a fishing base with a 1,000 tons capacity of cold storage".[66] The plan for development of these fisheries includes also arrangements for sources of equipments and gears. Estimates have also been outlined for investment in harbour and landing facilities and cold storage.

All these together would form a reasonable basis for a country pressing for a 200 miles exclusive economic zone. But if this is indeed the case, then the plan has not been implemented since in recent investigations at the coast this writer found that Kenya fishermen go hardly beyond ten miles from the coast. Thus, Kenya still has along way to go before it can realize the benefits of the principle of exclusive economic zone which it popularized at international negotiations on the new law of the sea.

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65. Republic of Kenya, Development Plan, 1970-1974 (Nairobi: Government Printers, 1969) p. 294.

66. ibid

APPENDIX A

Profile of the Continental Shelf on Eastern Arican Coast: Cape Guardafui to River Ruvuma (estimates in kilometers)

Distance from Cape Guardafui		Width of the Shelf
	At 0 distance	52
	100	25
	200	48
300	300	16
	400	12
	500	20
	600	25
	700	16
	800	20
5° N is at	840 km	
	900	19
	1000	20
	1100	10
	1200	10
	1300	8
45° E is at	1350	
	1400	4
	1500	4
	1800	10
	1900	7
	2000	37
	2100	12
40° E is @	2130	
	2200	2
	2300	18
	2400 (Pemba)	4 either side
	2500	10
	2600 (Zanzibar)	65 incl. island
	2700	40
	2750 (Mafia)	70
	1800	100
	2900	33
	3000	12
	3100	3
	3200	2
	3300	20

(Data are estimates by Dr. K.O. Emery of Woods Hole Oceanographic Institution measured from a bathmetric map at the institution at the request of this author. The profile is measured for every 100 km interval from Cape Guardafui to the mouth of River Ruvuma. One km = 5/8 mile. Measurement taken for continental shelf up to 200 meters isobath.)