

**The Replies of Denmark to
Vice-President Oda's Questions**

Denmark has the honour to reply to the three questions posed by Vice-President Oda at the conclusion of the first round of oral pleadings on Thursday, 21 January 1993.

1. As Denmark recalls, the concept of a 200-mile exclusive economic zone which was adopted at UNCLOS III, emerged not because States opposed the notion of a 200-mile fishing zone but because they wished to have an expanded jurisdiction. That is to say, they believed it should be a jurisdiction not confined to the utilisation and conservation of fishing resources but extending to pollution control, control over scientific research, the construction of artificial islands etc. The "exclusive economic zone" concept contains a whole variety of jurisdictional powers in contrast to the fishing zone. There does not, however, exist in international law an obligation on States to claim all these jurisdictional powers at the same time, and it is thus legitimate for States - as many do - to claim only the fisheries jurisdiction out to 200 nautical miles. Indeed, the practice is widespread. The 6th Revision of *Limits in the Seas* 1990 (No. 36 National Claims to Maritime Jurisdictions) gives the following list of States claiming 200 miles exclusive fishing zones, but not "exclusive economic zones": Angola, Australia, the Bahamas, Belgium, Brunei, Canada, Denmark, Federal Republic of Germany, German Democratic

Republic, Guyana, Ireland, Japan, Malaysia, Nauru, Netherlands, Poland, South Africa, Sweden, United Kingdom, Zaire: and originally some States like Chile, Senegal, USA, and Trinidad and Tobago began with fishing zones and moved to full exclusive economic zones at a later date.

Denmark is not aware of any general opposition to this practice.

Danish Act No. 597 of 17 December 1976 on the Fishing Territory of the Kingdom of Denmark (Annex 1 to the Memorial) authorises the Government of Denmark to establish 200 nautical miles fishing zones for the Kingdom of Denmark. Pursuant to this Act the Government of Denmark has extended the fishing zones throughout the Kingdom. Considerations are now being given to declare an exclusive economic zone in some or all parts of the Danish maritime spaces.

2. Denmark has taken the view that Jan Mayen, because of its size, could not be regarded as a "rock" for the purposes of Article 121(3) of the 1982 Convention. Thus an interpretation of the phrase "sustain human habitation or economic life of their own" has not been of direct relevance to the present case.

In Denmark's view, however, the rationale behind the new provision in Article 121(3) also has implications in a delimitation situation between

inhabited and uninhabited territories such as in the present case in so far as it implies that a delimitation ought to favour the former.

3. State practice has increasingly favoured the use of a single maritime boundary, perhaps because, in the majority of situations, there is no relevant factor which could justify a different location for shelf, fishing or exclusive economic zone boundaries. Moreover, in the present case there has been no request for different lines, one for the shelf and another, a different one, for the fishing zones

In determining the location of such a single boundary Denmark has wished to follow the judgment of the International Court in the *Gulf of Maine* case. As Denmark understands that judgment, it was not so much a question of which zone line (i.e. shelf or fishing zone) had priority, or which zone absorbed the other, but more a question of identifying and applying those factors relevant to both zones.

The Hague, 27 January 1993