Third United Nations Conference on the Law of the Sea

1973-1982
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Summary Records of Plenary Meetings
35th plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume I (Summary Records of Plenary Meetings of the First and Second Sessions, and of Meetings of the General Committee, Second Session)*

sify and unify co-operation between peoples, for poverty and greed were always sources of tension and conflict.

39. While the First United Nations Conference on the Law of the Sea had approved four Conventions—on the high seas, the continental shelf, the territorial sea and the conservation of the living resources of the high seas—the work of the Third Conference should be embodied in one single convention. In contrast to the surface of the earth, the surface of the sea was connected and not separated by physical barriers and the law of the sea should reflect that characteristic.

40. Mr. PARSI (Iran), speaking in exercise of the right of reply, claimed that the representative of the United Arab Emirates had used an improper term in referring to the Persian Gulf, which washed 450 miles of the Persian coast and had been known by that name in books of history and geography published in all languages, including Arabic. To avoid appealing to ancient or contemporary authorities, he would refer only to some national laws of the States bordering the Persian Gulf, including the United Arab Emirates. Those laws repeatedly used the traditional name, as could be seen by reference to pages 23–30 of volume I of the United Nations Legislative Series.[3] The fabricated label used, which was of recent vintage, was a distortion of fact and would serve no purpose other than to create tension and friction in an area where regional harmony and co-operation were of vital importance to the coastal States.

The meeting rose at 5.10 p.m.

[3] United Nations publication, Sales No. 1951.V.2.

35th meeting

Wednesday, 10 July 1974, at 10.50 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

In the absence of the President, Mrs. Chibesakunda (Zambia), Vice-President, took the Chair.

General statements (*continued*)

1. Mr. PRANDLER (Hungary) said that the adoption of the rules of procedure had demonstrated that consensus was within the reach of the Conference, given the will to negotiate and compromise. His delegation had not been fully satisfied with all the provisions of the rules of procedure but saw it as a good sign that the Conference had decided to seek generally acceptable provisions for the law of the sea.

2. He wished to comment on two points of a general character. The first concerned the universality of the Conference; as a signatory of the Act of the International Conference on ending the war and restoring peace in Viet-Nam of March 1973, his country could not accept the representation of South Viet-Nam at the Conference. As a co-signatory of the Paris Agreements, it deplored the failure to send an invitation to the Provisional Revolutionary Government of South Viet-Nam and it made a formal reservation about the unilateral representation of South Viet-Nam at the Conference. His country understood and supported the position of the Democratic Republic of Viet-Nam, whose Government had felt unable to participate in the Conference. The Hungarian position was dictated by the principle of universality, which would be strengthened if all the peoples fighting for their national independence were given an opportunity to be represented at the Conference. The Conference should invite the national liberation movements as observers; that would be in conformity with the policy of the General Assembly concerning the invitation of those organizations to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

3. The second point concerned the atmosphere of the Conference. His delegation was happy to note the serious approach of delegations to the issues facing the Conference and it was all the more regrettable that a discordant note had been introduced into the general debate. The Conference would be well advised not to let itself be turned away from the real issues; such an attitude would demonstrate the sense of responsibility felt by the overwhelming majority of delegations.

4. Since the 1958 Geneva Conference on the Law of the Sea it had become clear that a strict distinction could not be maintained between the codification and the progressive development of international law. In view of the emergence of new States and the rapid political, economic and technological transformation of the world, the community of nations could not wait for the formulation of rules of customary law which could serve as a basis for the codification *stricto sensu* of the law of the sea. New rules must be established, developing international law in a bold but careful manner.

5. His country's approach to the questions of the law of the sea was determined by the fact that it was a socialist State that happened to be land-locked. The land-locked States attached primary importance to the recognition of their right of access to the sea, their participation in navigation on the seas without discrimination and their sharing of the benefits of the oceans. The European land-locked countries, because of bilateral agreements with their neighbouring coastal States, enjoyed a more advantageous position than developing land-locked countries. Yet they too needed to be assured of unimpeded access to the seas and of an equitable share in the benefits of the resources of the seas.

6. With that in mind, his Government, together with other land-locked countries, had submitted draft articles (A/9021 and Corr. 1 and 3, vol. III sect. 5) to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction designed to establish and develop the international legal principles formulated in the 1958 Geneva Conventions and the Convention on Transit Trade of Land-locked States, adopted in New York in 1965.[1] It was an important task of the Conference to incorporate those legal principles and the rules derived from them in the new convention.

7. His delegation attached great importance to the traditional principle of the freedom of the seas and the legal rights derived therefrom, as enumerated, though not exhaustively, in the 1958 Conventions. The new convention should be founded on that principle and should determine its precise content and the reasonable limits within which it should prevail.

8. In his delegation's view, the breadth of the territorial sea should not exceed the distance essential to the protection of the most important interests of the coastal States. The distance should be fixed at 12 nautical miles, in conformity with the practice of most States. One of the serious shortcomings of the

[1] United Nations, *Treaty Series*, vol. 597, p. 42.

1958 Geneva Convention on the Territorial Sea and the Contiguous Zone[2] was its failure to define adequately the notion of innocent passage or the acts which, if committed, would deprive the passage of a given ship of its innocent character. His delegation therefore considered the precise definition of innocent passage of great significance.

9. The international régime of straits used for international navigation was closely linked to the freedom of the seas. It was of great importance for all States that straits connecting two parts of the high seas should remain open to their vessels and that the right of free passage through such straits, and the freedom of overflight, should be incorporated in the Convention.

10. Although it favoured a 12-mile limit for the territorial sea, his delegation did recognize the economic privileges of coastal States beyond that limit. It accepted the concept of an economic zone of 200 miles in which the utilization of the living and mineral resources would benefit the coastal State. The land-locked countries made no small sacrifice by recognizing the rights of more fortunately situated States to the economic utilization of the richest and most accessible parts of the seas. His country's position was determined by its socialist foreign policy, which gave consistent support to the developing countries in their legitimate claims to a better life. The Convention should explicitly recognize that the geographically disadvantaged States should be authorized to engage in fishing under equitable conditions when the coastal State was not able to utilize the optimum yield in the zone.

11. As a land-locked country, poor in natural resources, Hungary had a special interest in the area of sea-bed designated the common heritage of mankind. That area was, however, far off shore and poor in living resources, and its mineral resources would be exploitable only in the distant future. Four basic elements must be incorporated in the international régime and machinery to be set up under the convention. The resources of the area should be exploited for the benefit of all countries without discrimination but with due regard for the interests of developing and land-locked countries. The area should be used exclusively for peaceful purposes. The International Sea-bed Authority should provide for the orderly and safe development of the area, co-ordinating the activities of States in the exploration and exploitation of the mineral resources. The convention must include clear-cut provisions concerning the functions and composition of the organs of the Authority, and such guidelines for its rules and regulations as would enable it to fulfil its tasks efficiently without detriment to the interests of any group of States.

12. The questions of scientific research and the protection of the marine environment were also important for land-locked countries. The recognition of the growing importance of the problems of the protection of the marine environment had been demonstrated by the recent adoption of international instruments, notably the International Convention for the Prevention of Pollution from Ships, concluded in London in 1973. Several international organizations, first among them the Inter-Governmental Maritime Consultative Organization, devoted much of their activities to those problems. The sea-bed Committee had already drawn up some principles which might serve as the basis for new rules. Special attention should be given to the questions of control and liability in cases of pollution caused by ships. The Conference could perhaps incorporate certain provisions of the London Convention in such a way as to preclude arbitrary unilateral acts.

13. Only the 1958 Convention on the Continental Shelf[3] dealt with the issues of scientific research, and thus the 1958 codification needed to be improved. The sea-bed Committee had already taken some initial steps; in his delegation's view, the research should be regulated on the basis of the principle of freedom of scientific research.

14. In conclusion, he stressed that the Conference could be fully successful only if it observed the recommendation of the General Assembly in resolution 3067 (XXVIII) that the problems of ocean space were closely interrelated and needed to be considered as a whole. His delegation offered its full co-operation to the great undertaking represented by the Conference.

15. Mr. MONNIER (Switzerland) said that his delegation had not taken part in the work of the sea-bed Committee and it therefore welcomed the present opportunity to make its views known. By tradition and because the small countries found the best guarantees of their interests in the widest possible respect for international law, Switzerland had always taken part in the preparation of conventions designed to regulate international relations. As a party to the 1958 Conventions, his country was well aware of the importance of the goal of the present Conference, namely, to adapt the regulations established at Geneva to the realities of contemporary international society.

16. Although lacking a coastline, his country did have a commercial fleet of some 350,000 tons. It was therefore interested in the maintenance of the traditional liberties of the sea, in particular the freedom of navigation. The freedoms of navigation and of overflight had already been affected by unilateral measures extending the territorial sea well beyond the limit presently recognized by the majority of States; they might be reduced to nothing by the establishment of an extensive economic zone adjacent to a territorial sea of 12 miles, unless it was expressly stated that those freedoms would be fully respected in that zone. The extension of the territorial sea to 12 miles would have the effect of closing to free navigation and overflight parts of the sea where those freedoms had so far existed. Any undue restriction of the two freedoms would create an obstacle to the development of trade and communications among States.

17. His delegation thought that the freedom of scientific research should also be protected. Provided that the coastal State was informed of research projects and might participate in them if it wished and that the results were subsequently published, freedom of scientific research did not serve private or selfish interests but benefited the international community as a whole.

18. He noted that the idea of "non-coastal States" or "land-locked countries" was a relative one, since there were some countries which, while having direct access to the sea, were disadvantaged in other ways, e.g. through having only a very narrow sea front or having a continental shelf meeting the continental shelf of other countries at only a short distance from the coast. Non-coastal States in the strict sense had to protect their vital right to have ships sail the high seas under their flag, a right which had been established in the Declaration of Barcelona in 1921, and in the 1958 Geneva Convention on the High Seas.[4] That right must be clearly reconfirmed in the new convention, together with the equality of rights of land-locked countries with regard to their access to and use of sea ports, as established in the 1923 Geneva Convention and Statute on the International Régime of Maritime Ports[5] and as recognized, in principle, in the 1958 Geneva Convention on the High Seas. The right of free transit through the territory of the States situated between the sea and the non-coastal States must also be clearly reconfirmed.

19. A second vital area concerned the rights of the land-locked countries in the broader sense of the term in an economic zone to be established beyond the territorial sea. The legal justification for those rights lay in the need for the land-locked countries to be compensated for the provision of advantages benefiting only the coastal States and for the simul-

[2] *Ibid.*, vol. 516, p. 206.
[3] *Ibid.*, vol. 499, p. 312.
[4] United Nations, *Treaty Series*, vol. 450, p. 82.
[5] League of Nations, *Treaty Series*, vol. LVIII, p. 286.

taneous loss of large areas of the high seas previously open to land-locked and non-coastal States. The rights must be established in an equitable manner, in the light of the jurisdiction granted to coastal States in the economic zone.

20. Turning to the rights of non-coastal States in the international régime and machinery for the sea-bed and ocean floor, he noted that the new concept of the common heritage of mankind expressly prohibited any unjustified discrimination and stated that particular account should be taken of the needs of the most disadvantaged members of the international community. The same principle provided that the land-locked countries should be properly represented in the organs of the international authority. Whatever the legal status of the authority, it must have a solid structure and must be universal. In view of the novelty and importance of its role, sound solutions must be found for the settlement of differences that might arise among its members. His delegation shared the view that the system for the settlement of disputes concerning the new convention as a whole should be flexible, in view of the complexity of the problems to be solved, but mandatory.

21. The establishment of an economic zone adjacent to the territorial sea, even if it did not abolish the doctrine of the continental shelf, would at least help to resolve the question of the outer limit of the shelf by making it contiguous with that of the zone. The economic justification of the doctrine of the continental shelf was the same as that underlying the idea of the economic zone. The continental shelf should become an integral part of the zone, in fact and in law, since the rights of the coastal State would relate to all the resources of the zone, including the sea-bed and its subsoil. Thus it would seem that the concept of the continental shelf no longer corresponded exactly with the concepts that would prevail in the new delimitation of ocean spaces. Consequently, his delegation had noted with interest the proposal that the revenues accruing to the coastal State from the exploitation of the resources of the continental shelf beyond the outer limits of the economic zone should be distributed through the proposed International Authority.

22. Mr. AL-SHUHAIL (Saudi Arabia) said that his country supported the declaration in General Assembly resolution 2749 (XXV) 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, were the common heritage of mankind, provided that the Conference adopted the concept of an exclusive economic zone of 200 miles. It also supported the establishment of an international sea-bed organization established on the basis of equal rights and privileges for all countries and recognized the land-locked countries' need for access to sea transit.

23. Saudi Arabia had set a 12-mile limit for its territorial waters, scientific research being permitted subject to national jurisdiction. It supported free passage in international straits connecting different parts of the high seas and had no objection to the claims of archipelagic States if the channels of international navigation were respected.

24. Since Saudi Arabia had 122 nautical miles of coastline in waters subject to extensive marine pollution, it had been an active member of the Inter-Governmental Maritime Consultative Organization since 1969. It was a party to the 1954 International Convention for the Prevention of Pollution of the Sea by Oil[6] and as the country with the highest output of oil in the world, had taken fundamental steps in that respect. It had delimited its offshore areas by friendly agreements with most neighbour countries and believed that every coastal State was entitled to extend its exclusive economic zone up to 200 miles on the basis of the freedom of navigation and overflight in that area. The exploration and exploitation of the resources beyond that zone were the right of the international community exercised through an international machinery and subject to the fair distribution of the revenue from such exploitation between all nations.

25. Since the new law of the sea would have an impact on all nations, the liberation movements should also be admitted to the Conference.

Mr. Amerasinghe (Sri Lanka) took the Chair.

26. Mr. ABDUL KADIR bin YUSOF (Malaysia) said that his delegation shared the concern of the African and Arab delegations over the absence of representatives of the national liberation movements recognized by the Organization of African Unity and the Arab League at such a significant Conference. The regulation of the uses of the seas, which comprised five sevenths of the earth's surface, was crucial for the future quality of life of mankind. In the light of the depletion of the resources of the earth, nations were increasingly looking towards the sea's resources to provide them with the opportunity for social and economic development. The work of the Conference was therefore a test of the role and ability of the international community to manage its affairs in such a way as to ensure its future survival.

27. Malaysia was a small country divided into two parts separated by an international waterway—the South China Sea. It was very conscious of its resultant responsibility to international shipping, but equally conscious of the grave danger of marine pollution. The Straits of Malacca to the west were also heavily used by international shipping. Too little importance seemed to be attached to the security and other legitimate interests and concerns of coastal States, which should not be expected to bear the cost of damage to their marine environment caused by pollution and accidents. The future convention should embody a clear enunciation of the responsibilities of the international maritime community and regulations to ensure unhindered passage for commercial shipping, adequate safety and pollution prevention standards, liability and compensation for damage, and passage for military vessels. Malaysia was a sponsor of draft articles on navigation through the territorial sea, including straits used for international navigation (*ibid.*, vol. III, sect. 6), and would be happy to negotiate with other delegations in order to allay their just fears and accommodate their interests.

28. His delegation agreed that a coastal State should be entitled to establish a broad economic zone with exclusive rights to explore and exploit the living and non-living resources therein and could support a breadth of 200 nautical miles. With regard to the continental shelf, rights already acquired by coastal States under existing international law should continue to be recognized. His Government, which was now undertaking scientific research, particularly into the control of marine pollution, would work for the establishment of regulations enabling pollution control measures to be effectively enforced and ensuring that research activities did not jeopardize the legitimate interests and security of coastal States. It attached great importance to a system guaranteeing the transfer of technology, especially from the developed to the developing countries.

29. The Malaysian delegation supported the archipelago concept in order that the countries concerned might fulfil their national aspirations. However, by an accident of geography, the furthering of Indonesian unity through that concept would divide West and East Malaysia. Both Governments were aware of that problem and in discussions held at the highest level recently, Malaysia and Indonesia had agreed to work towards its solution in a mutually satisfactory manner, which would have to be endorsed by the Conference. In the meantime Malaysia was open to any suggestion relating to other modalities which the Conference might devise to solve the problem. Although the concept had support from States in other regions, it mainly affected States in the south-east Asian region. Any difficulties should therefore first be resolved by the States di-

[6] United Nations, *Treaty Series*, vol. 327, p. 2.

rectly concerned. In that connexion, Malaysia attached great importance to the solution of problems of common concern on a regional basis.

30. His delegation sympathized with the legitimate interests of land-locked States, which should be satisfactorily accommodated by the Conference.

31. It supported the view of the vast majority of developing States that the machinery for the international régime beyond the limits of national jurisdiction should have wide powers to explore and exploit sea-bed resources to maximum advantage and that the distribution of the benefits accruing therefrom should take into account the special needs and interests of developing States. The machinery should also be able to ensure that any such exploitation in no way detrimentally affected the developing countries whose economies were dependent on mineral production.

32. Mr. OZORES (Panama) said that resources of the sea, the sea-bed and its subsoil were the last hope for a future of mankind based on common prosperity. Care must therefore be taken that the exploitation of those resources beyond national jurisdiction should really be carried out to the benefit of all mankind, and in particular the vast majority which the accidents of geography and history had deprived of wealth and well-being. It should, however, be remembered that the exploitation of those resources could disrupt the economy of certain countries, especially developing countries, whose mineral wealth might suffer from competition from minerals cheaply obtained from the sea-bed. His delegation therefore supported the establishment of an international authority endowed with the powers and means to attain its objectives and with decision-making organs on which all States were represented, which would be responsible for such exploitation. It also supported Jamaica's desire to provide the headquarters for that authority.

33. The constant increase in world shipping and the lack of universally accepted laws and control machinery were causing a dangerous increase in marine pollution which it was hoped that the recently drafted London Conventions would help to prevent. The passage of over 15,000 ships each year through Panamanian territorial waters had already caused the contamination of that country's flora, fauna and beaches. Panama therefore realized the urgent need for legal instruments which would guarantee due protection against marine pollution in the historic bay of the Gulf of Panama and the 200 sea miles of its territorial waters. It would also support any international agreement to control pollution of the sea and sea-bed beyond national jurisdiction. The conservation of the resources of the sea and their reasonable exploitation must be based on knowledge of the elements which maintained the physical, chemical and biological balance of the ocean, but research must not serve as a pretext for increasing the benefits obtained by the industrialized States and thus the gap separating them from the developing countries.

34. The coastal State should enjoy sovereignty over the exploration, exploitation and conservation of the resources of the continental shelf. Panama had declared its sovereignty over that area in 1946.

35. Freedom of navigation was one of the basic principles of international law, although the sea routes could be used for warlike as well as for peaceful ends. For example, a foreign Power had deprived the Republic of Panama of the exercise of its legal rights over the Canal and its banks for the past 71 years. Industrialized countries were also exploiting the fishing resources of Panamanian waters. That was why Panama had claimed—and exercised since 1967—exclusive rights over the protection and exploitation of the living and mineral resources in 200 nautical miles of its territorial waters and had declared the Gulf of Panama to be a "historic bay". That had created a useful precedent for the universal application of the concept of a 200-mile economic zone which had gained almost unanimous support at the present Conference.

36. The Republic of Panama wished to ensure the safe and speedy passage of ships through its territorial waters on the way to other continents and therefore ratified and would always require strict compliance with the Treaty for the Prohibition of Nuclear Weapons in Latin America.

37. His delegation would support any reasonable proposals allowing access to the sea for land-locked countries. Although from the point of view of physical and human geography, the Isthmus of Panama held a privileged position, the excessive ambitions of great Powers were such that, from the point of view of political geography, Panama could be considered a geographically disadvantaged State. It would continue to proclaim to the world its anomalous situation, in which part of its territory was occupied by a foreign Power which had deprived it of the benefits obtainable from its most precious natural resource, namely that of its geographical position and the means of exploiting it—the Panama Canal. No country was better placed than his own to ensure the safe and speedy passage of shipping through its territorial waters, as well as the safety of the coastal State and the Canal itself. His delegation considered that the principle of innocent passage should be the basis of any consideration of the rights of the coastal States to grant passage through their territorial waters and those of artificial waterways to foreign shipping. Although freedom of overflight was understandable for long-established natural waterways, the principle in no way applied to artificial waterways crossing the territory of a sovereign State, which must be settled by bilateral agreements.

38. The denial of Panama's rights was a source of international tension and a constant threat to the peace and security of continents and seas. Since the meeting of the Security Council held in Panama in 1973, the Republic of Panama and the United States had agreed to pursue bilateral negotiations with a view to repealing the 1903 Convention, which it was hoped would result in an agreement meeting the legitimate aspirations of Panama.

39. Panama, with its important inter-oceanic canal and one of the largest merchant fleets in the world, appeared to be a sea Power, a position which conferred upon it obligations and responsibilities as well as advantages. However, owing to its exploitation by foreign Powers, it still remained a small developing country with the problems and aspirations common to all third world States. It was attending the Conference in a spirit of optimism and with the intention of doing its utmost to contribute to an equitable solution of the important problems before it.

40. Mr. OYONO ALOGO (Equatorial Guinea) said that his delegation was concerned at the absence of representatives of the liberation movements that had been recognized by regional and international organizations. As a member of the Organization of African Unity, his Government urged that the liberation movements should be represented at the Conference as the true representatives of their peoples.

41. Regarding the problems before the Conference, his delegation whole-heartedly supported the statements made by the Deputy Secretary-General of the Organization of African Unity at the 26th meeting. His Government considered that the Conference should be concerned essentially with the legal, geological, economic and political aspects of the law of the sea, with due regard to the sovereignty of States and their natural resources, history and geographical peculiarities, as the representative of the Organization of African Unity had indicated at the Conference of Heads of State or Government of Non-Aligned Countries at Algiers in September 1973.

42. The great maritime Powers had built up their colonial empires on the principle of free navigation and had established as a natural law a limit of three nautical miles for the territorial sea. As a result of pressure and rebellion on the part of former colonies, that limit had been extended to 12 nautical miles. Today the problem was no longer a matter of freedom of

navigation—which no one disputed—but concerned exclusively the sovereign right of States to protect and conserve the natural resources of their territorial seas. The Conference would have to establish a rule which would prevent piracy and would respect the just aspirations of countries that lacked the maritime and industrial power to exploit the wealth of the open sea and had to use their limited resources on exploiting and defending their territorial seas. In the light of existing scientific and industrial knowledge concerning the wealth of the sea, a just rule would provide for a limit of 200 nautical miles.

43. After carefully studying relevant material from other Governments, his Government had decided to extend its territorial sea to 200 nautical miles; but it had noted the views of other countries and would respect the decision of the Conference. The extension would in no way affect the interests of neighbouring States.

44. He stressed the need to avoid arrogant, paternalistic attitudes which would not help the objective of the Conference, namely to prepare a law of the sea embodying justice, equality and mutual respect among States, whether large or small, poor or rich, or first, second or third world.

45. The problem of marine pollution was of vital importance for the conservation of fisheries resources, but atmospheric pollution was also important because of its danger to the human species. His Government was confident that equitable solutions would be found for the benefit of mankind. The safeguarding of peace was inseparable from economic progress.

46. Mr. KHARAS (Pakistan), recalling the history of the law of the sea, said that with political, economic and technological changes in the world, the sea had ceased to be merely the artery linking widely dispersed land masses and the supplier of limited quantities of fish and had become a vast reservoir of renewable and non-renewable resources and a growing object of sophisticated military use. Unless its various uses were regulated in a just and equitable manner the sea would turn into an arena of struggle and conflict. It would be a calamity if technologically advanced countries were to enter into colonial competition over the sea's resources.

47. The Conference should not adopt regulations which merely reflected the economic, political and military powers of the few. The law of the sea should be one of the means of giving practical shape to the new economic order decreed by the General Assembly at its sixth special session.

48. The basic question before the Conference was the question of limits, which his delegation thought should be approached not as an exercise in numbers, but with the object of harmonizing the legitimate interests of the coastal States with the general interests of the world community. The land mass of a State and the adjoining surface of the sea, its water column, the sea-bed and the subsoil thereof, all formed an organic unity; and a State's interests included security, environment and the resources in the adjacent marine area. For the developing coastal States in particular, the marine resources supplemented inadequate land resources and their exploitation and conservation was a vital necessity in the struggle against hunger, disease, unemployment and illiteracy. Those countries naturally found it unjust and unacceptable that technologically advanced countries far from their shores should reap the harvest of those living and non-living resources: indeed, that was contrary to the concept of the United Nations Development Decades.

49. His country would accept, as a general rule, a breadth of 12 nautical miles for the territorial sea, subject to acceptance of an economic zone extending seaward to 200 nautical miles measured from the baseline from which the territorial sea was computed. The essence of that concept was the assertion of the right of a coastal State to extend its jurisdiction beyond the limits of its territorial sea to an area adjacent to its coast in which it would exercise sovereign rights over the living and non-living resources of that area, including the sea-bed, the subsoil thereof and the superjacent waters. His delegation firmly supported the view that coastal States should have exclusive sovereign rights over those resources within their economic zones or the patrimonial seas. Such jurisdiction should also extend to the preservation of marine environment, conduct of scientific research and emplacement of installations in the zone. He would prefer the concept of exclusive fisheries zones and the existing sovereign rights of coastal States over non-living resources to be subsumed in the wider concept of the economic zone. In the economic zone, the freedoms of navigation, overflight and laying of submarine cables and pipelines would be maintained in so far as they did not affect the functional jurisdictions of coastal States.

50. Pakistan attached great importance to that question and had submitted a proposal in document A/AC.138/SC.II/L.52 of 9 August 1973 (*ibid.*, sect. 42) The respective limits of the territorial sea and the economic zone were integrally related. Should a sufficiently large economic zone fail to be conceded, his delegation would be obliged to support proposals for wider limits for the territorial sea.

51. In cases where the method of delimiting the territorial sea and the economic zone was a source of potential conflict between States, his delegation thought that the proposed limits should be applied flexibly, to meet the needs of justice and equity and the overriding interests of States. In such cases the median line principle would be a valid method.

52. On the question of straits used for international navigation, which required a balance between the requirements of free flow of communications and the need to safeguard the legitimate rights and interests of coastal States regarding national security, safety of navigation and prevention of pollution, he endorsed the principle embodied in the Declaration of Santo Domingo[7] to the effect that ships of all States, whether coastal or not, should enjoy the right of innocent passage through the territorial sea, in accordance with international law. He also supported the view that the question of overflights should be dealt with separately in appropriate legal instruments such as the Chicago Convention on International Civil Aviation.

53. As a developing country, Pakistan appreciated the aspirations of developing land-locked States to improve the life of their peoples and it had always extended full transit facilities to its neighbouring land-locked States, under bilateral arrangements. It saw no justification for making the existence of transit facilities independent of agreement between the parties concerned. The right of transit was subject to the principle of reciprocity as laid down in the 1965 Convention on Transit Trade of Land-locked States. His delegation considered that, given goodwill, mutually acceptable ways could be found for accommodating the interests of land-locked States in respect of the living resources of the economic zones of neighbouring coastal States. It supported the view that land-locked States should share the resources of the international area on an equal basis and should be adequately represented in the international machinery to be set up to administer that area.

54. His delegation considered that the immense mineral resources and the living resources of the international area—rightly pronounced the common heritage of mankind—should be under the jurisdiction of the International Authority. The ocean space beyond national jurisdiction should be treated as a single entity. There should be no distinction between living and non-living resources in respect of conservation, exploration and exploitation. The International Authority should be vested with wide and comprehensive powers and should be empowered to explore and exploit the international area either directly or through other means, to deal with equitable distribution of the benefits derived therefrom—bearing in mind the special interests and needs of developing countries—and to

[7] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21* and corrigendum, annex I, sect. 2.

minimize any adverse effects on the economies of mineral producing countries. The composition of the International Authority should be based on the principle of equitable geographical distribution and the Authority should operate democratically and on the basis of sovereign equality of member States.

55. On the important questions of scientific research and preservation of marine environment, he considered that while international standards against pollution should be drawn up for guidance, their actual adoption and application should rest with coastal States in the areas under their national jurisdiction. Pakistan had made the preservation and enhancement of the environment a constitutional responsibility of the State. His delegation considered that scientific research should be subject to the express permission of coastal States, which should have the right to full participation and complete access to data collected. In that connexion he drew attention to the proposal submitted by his and other delegations in document A/AC.138/SC.III/L.55 (*ibid.*, sect. 45). The transfer of technology was essential, so that developing coastal States should be able to interpret the relevant data.

56. In the interests of universality, his delegation strongly supported the participation of the liberation movements in the Conference, at least as observers. One of the reasons for the obsolescence of the Geneva Conventions was that a large part of the present international community had not been associated with their formulation.

57. Mr. PANUPONG (Thailand) said that the law of the sea was moving from an essentially laissez-faire approach to a system of proper and effective regulation of all activities in, on or under the sea, with a view to avoiding conflicts and effecting equitable redistribution of the resources among States.

58. Most people believed that the traditional concept of freedoms of the sea should be reconstructed, if not totally discarded. That concept had long been interpreted as encompassing freedom to deploy forces, freedom of rivalry for power, freedom to monopolize the exploitation of marine resources and freedom to pollute. The freedoms of abuse of the common heritage of mankind were no longer acceptable. A new legal order was urgently needed in which the law of power would be replaced by the law of welfare and social justice.

59. The Conference had a difficult and complex task because of the wide diversity of economic, technological, social and other aspects of national life; geographical differences; and the vast variety of conflicting interests.

60. Thailand was a developing country whose interests regarding the use of the sea were primarily economic. It was neither a military power nor a maritime nation. Its vital interests were access to and from the high sea and fishing. Its concern was not to claim anything from other nations or from the international community, but to safeguard its legitimate rights under international law.

61. Geographically, it was a transit coastal State for Laos; but despite having certain coastlines it was itself situated in the semi-enclosed Andaman Sea in the west and South China Sea in the east and was far removed from the open seas. Thailand's difficulties over access would be aggravated if certain new concepts, regarded by some as *de lege ferenda*, became the rules of positive international law of the sea. Its economic viability and stability and its chance of development depended heavily on exports; and access to and from the high seas was necessary both for foreign trade and for its fishermen.

62. Thailand was to some extent a distant fishing nation. Fish was an essential source of food and a large number of the population depended on fishing for their livelihood. Thus the supply of fish was a key factor in the life of the people and the economic development of the country. Fishing activities were not the result of advanced technology or of the use of sophisticated apparatus. It was sheer economic necessity that impelled the fisherman in Thailand to toil at sea, often far from home. Fishing capacity was thus not synonymous with the status of developed economy.

63. With regard to the problems before the Conference, his delegation was sympathetic to the broad national jurisdiction envisaged in connexion with the 200-nautical-mile economic zone, but thought that two points needed careful consideration. In the first place, his delegation noted that there was growing support for a maximum distance of 200 miles for the zone, and it understood that that would allow flexibility regarding the width of the zone, which would be subject to further negotiation with a view to reaching a consensus taking all relevant factors into account. Should the 200-mile criterion be accepted by the majority, his delegation would wish for an international standard to be devised to ensure compensatory rights or benefits for the countries which had no possibility of extending their jurisdictional sea areas to that limit.

64. Secondly, his delegation considered that a distinction should be drawn between jurisdiction respectively over the sea-bed and the subsoil thereof and over the living resources. His delegation would have no great difficulty in recognizing the coastal State's full jurisdiction over the sea-bed and subsoil of the zone, but would find it difficult to accept the same degree of jurisdiction over the living resources. Its acceptance of the concept of economic zone would be conditional on the equitable sharing of the living resources in the zone by other interested countries, especially by the coastal State's developing neighbours and developing countries which had traditionally and actually exercised in the areas the right of exploitation of the living resources so far conferred by long-established rules of international law. It should be borne in mind that an extension of any distance into the high sea which was *res communis* might in some cases be at the expense of the developing countries as well as of the big or maritime Powers. Without compensatory measures, the greatest losers would be the developing countries.

65. His country had much sympathy for the principle that genuine archipelagic States should be accorded special treatment. However, the convention must recognize the legitimate rights of neighbouring countries affected by the application of that principle, namely, the right of transit of the countries enclosed by the waters of archipelagic States for the purposes of access to and from any part of the high seas, and the right of reasonable access to the living resources in areas which, under existing international law, were considered as high seas. His delegation would have difficulty in accepting the application of the principle to archipelagos which did not have the status of a State. If the principle was to apply to them, then why should there be the concept of archipelagic States at all? Furthermore, if the principle was to apply to all archipelagos and they were granted territorial waters, sea and other jurisdictional zones, how much would be left for the international area? The Conference must ask itself how seriously it took the principle of the common heritage of mankind; while challenging the principle of *mare liberum*, it might be swinging back to the other extremity of *mare clausum*.

66. His delegation attached special importance to the rights of the geographically disadvantaged States, but it could not accept the view that every country in the world was in one way or another geographically disadvantaged. Certain States, however, undeniably suffered geographical disadvantages; they were the land-locked and shelf-locked States, States with extremely short coastlines and those situated in enclosed or semi-enclosed seas. The convention must recognize the particular interests of those States, at least, in three respects: their right of access to and from the high seas, their right of access on an equitable basis to the living resources of the sea and their right to have an equal role in the management and decision-making processes of the international machinery and to draw an equitable share of the revenue derived from exploitation of the international area.

67. His country favoured a limit of 12 miles for the territorial sea but it saw the need to determine criteria for appropriate baselines from which the territorial sea could be measured.

68. With regard to straits used for international navigation, his delegation thought that if they fell within the territorial sea of one or several coastal States, the sovereignty of the coastal State or States should be recognized, subject to the régime of innocent passage, and that there should be safeguards for the security and other vital interests of the coastal States.

69. Being situated in a semi-enclosed sea through which international navigation routes passed, his country had a special interest in the prevention and control of pollution. It subscribed to the idea of an international standard for the users of the sea, the sea-bed and its subsoil. Questions of liability, remedy and compensation should take account of the harmful effects which might be suffered primarily by the coastal States.

70. His delegation favoured an international machinery with broad authority for the management and exploitation of marine resources in the area outside national jurisdiction; decisions on matters of common interest should be taken or approved by a majority of States.

71. As to scientific research, his country would support the broad competence of coastal States to ensure their own security and the *bona fide* nature of the research. The benefits of scientific research should be shared by the entire international community, especially the developing coastal States in whose jurisdictional areas it was conducted.

72. The task before the Conference was not merely to clarify and supplement the existing rules of international law but to restructure the law of the sea as a whole. That could be achieved only by accommodating particular interests to the common ones in the form of a package deal on all unsettled major issues. However, particular interests, even those of a minority, could not be swept under the carpet. No decisions could be imposed on dissenters, and no law could survive if rejected by many States. The success of the Conference rested therefore on general agreement, and such agreement could be achieved only in a spirit of accommodation and flexibility. The Conference could not afford to fail, for failure would lead to serious international conflicts and even violence. His delegation pledged its co-operation in the common efforts to attain equity and international justice in the use of the sea and its resources.

The meeting rose at 1.15 p.m.

36th meeting

Wednesday, 10 July 1974, at 3.55 p.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

General statements (*continued*)

1. Mr. AL-QADHI (Iraq) said that his country had participated in the United Nations Conferences on the Law of the Sea in 1958 and 1960. In his delegation's view the Conventions that had been adopted at Geneva did not reflect the needs of all the peoples of the world. For that reason, the present Conference was proceeding in a new spirit to meet the requirements of the contemporary world.

2. With regard to the question of the territorial sea, his delegation was of the view that the establishment of a limit not exceeding 12 miles might be approved by the majority of States, and it would therefore be advisable to adopt it. His country attached great importance to the question of freedom of navigation, since that was a basic principle of sea law and the major factor in the development of world trade and communications. In straits which had been used for international navigation since historical times and which connected two parts of the high seas, freedom of navigation must be maintained and guaranteed. As to the continental shelf, the development of marine technology proved that the previous exploitability criterion was no longer applicable. The delimitation of the continental shelf between two or more States was one of the vital questions before the Conference. Article 6 of the Geneva Convention on the Continental Shelf[1] set out the methods for making such a delimitation. And in its judgement on the North Sea Continental Shelf cases[2] the International Court of Justice had found that no single method of delimitation was likely to prove satisfactory in all cases. Special circumstances and the principles of equity and justice should therefore be taken into consideration in each case.

3. His delegation recognized the aspirations of coastal States to extend their marine jurisdiction to an economic zone or a patrimonial sea beyond their territorial waters, but it believed that the interests of the land-locked and the geographically disadvantaged countries should be borne in mind, as should the need to secure freedom of navigation.

4. The concept of the economic zone or patrimonial sea should not be applied to semi-closed seas, where it was vitally important to recognize the rights of all the States in the area. For that reason, the solution of the fishing question in those areas was a high-priority matter. A proper solution would be the establishment of regional arrangements for conservation, exploration, management, protection from pollution and development of the living resources of the sea. The coastal States might establish, in consultation with the appropriate FAO commissions, regional and subregional regulations for the sector beyond their territorial waters; those regulations might be embodied in multilateral regional agreements to which all the coastal States would be parties.

5. His delegation was greatly concerned at the continuing degradation of the marine environment. In semi-closed areas like the Arabian Gulf, pollution might come from many sources. Regional and subregional conservation units should be established to prevent and control oil pollution, which was the most harmful. International measures were urgently needed, and the Inter-Governmental Maritime Consultative Organization might be of great help in that sphere.

6. There was an urgent need for scientific research and the transfer of technology to developing countries. His country gave a high priority to those questions, and it had actively participated in various projects. His delegation considered that research in waters under the jurisdiction of a coastal State was a legitimate activity of that State. Scientific research in the international zone should be undertaken in co-operation with the competent specialized agencies such as FAO, UNESCO and others. The participation of developing countries in inter-

[1] United Nations, *Treaty Series*, vol. 499, p. 312.

[2] *North Sea Continental Shelf, Judgment, I.C.J. Reports 1969*, p. 3.