Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings
39th plenary meeting

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amend the list of entities invited to participate, as it appeared in General Assembly resolution 3067 (XXVIII), to which recognition had been given in the rules of procedure adopted on 27 June 1974.

113. A decision on the issue required the majority stipulated in rule 39, paragraph 1, of the rules of procedure for two distinct reasons. First, as any lawyer knew, questions of competence were not merely procedural issues; they might perfectly well constitute matters of substance. Consequently, rule 34 of the rules of procedure, in accordance with legal tradition in that regard, did not stipulate the majority required to solve questions of competence. The matter now being discussed was clearly of a political nature and therefore a matter of substance to which rule 39, paragraph 1, applied. Secondly, any decision giving the Conference the competence that was envisaged would necessarily and inevitably imply an amendment to the Conference's rules of procedure, which, under rule 65, would require the majority provided for in rule 39, paragraph 1. It was that majority which was required in the present instance.

114. The PRESIDENT said he understood that the matter to be decided by the Conference was whether it was competent to take a decision on the Senegalese proposal that the liberation movements recognized by the Organization of African Unity or the League of Arab States should be invited to participate in the Conference as observers. If there was no objection, he would rule that the issue should be decided by a simple majority of members present and entitled to vote.

It was so decided.

At the request of the representative of Israel, a vote was taken by roll call on the competence of the Conference with regard to the proposal of Senegal.

Saudi Arabia, having been drawn by lot by the President, was called upon to vote first.

In favour: Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Venezuela, Yemen, Yugoslavia, Zaire, Zambia, Afghanistan, Albania, Algeria, Argentina, Bahrain, Bangladesh, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic People's Republic of Korea, Democratic Yemen, Egypt, El Salvador, Ethiopia, Fiji, Gambia, German Democratic Republic, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nigeria, Oman, Pakistan, Peru, Philippines, Poland, Qatar, Republic of Korea, Republic of Viet-Nam, Romania.

Against: South Africa, Israel.

Abstaining: Spain, Sweden, Switzerland, Thailand, Tonga, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Western Samoa, Australia, Austria, Barbados, Belgium, Bolivia, Canada, Chile, Denmark, Dominican Republic, Ecuador, Finland, France, Germany (Federal Republic of), Guatemala, Haiti, Iceland, Ireland, Italy, Japan, Luxembourg, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Portugal.

The Conference decided by 88 votes to 2, with 35 abstentions, that it was competent to consider the proposal of Senegal.

115. Mr. STEVENSON (United States of America) said, in explanation of his delegation's vote, that he wished to place on record the fact that, in the opinion of the United States, the decision just adopted by the Conference did not prejudice the position of participants concerning the matter of the Conference's competence.

116. The PRESIDENT said that the decision of the plenary Conference entailed an amendment to the rules of procedure. The General Committee would therefore make the appropriate amendments, which would be submitted for approval by the majority required under rule 39, paragraph 1, of the rules of procedure.

The meeting rose at 7.45 p.m.

39th meeting

Friday, 12 July 1974, at 11.05 a.m.

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

General statements (*continued*)

1. Mr. VAN der ESSEN (Belgium) said that his was a small, thickly-populated country, with no natural resources. Its inhabitants had achieved their standard of living through capacity for work. Although it was a sea-going country, its coastline bordered on a narrow sea, separated from the ocean by a strait 25 miles broad towards the south-west and a sea less than 400 miles wide in the north. Its 800 fishermen were therefore obliged to fish in the waters of other States. Consequently, it was understandable that Belgium was not disposed to accept the idea of a wide exclusive economic zone, although it was ready to take account of the problems posed by technological evolution. It hoped however that a solution to those problems could be found along the lines of the 1964 Fisheries Convention,[1] which empowered coastal States to establish a fishing zone beyond their territorial waters, in a wide area of which the customary rights of foreign fishermen who had habitually fished there were formally recognized. Belgium had no factory ships; its fishing was practised on a family and traditional basis. To deprive the fishermen of their livelihood would therefore pose not only social but also human problems. Some speakers had said that countries whose continental shelf was over 200 miles wide had vested interests beyond that limit. Fishermen also had vested interests and he saw no reason why they should be deprived of them.

2. Belgium was however ready to recognize particular situations and accept the special rights of countries whose economy depended mainly on fishing, as it had shown in the treaties it had concluded with Iceland, and with Denmark with regard to the Faroes.

3. His country had always preferred international to national solutions because they constituted a better guarantee for small countries. It therefore attached great importance to regional fishing organizations and hoped that their methods of opera-

[1] United Nations, *Treaty Series*, vol. 581, p. 57.

tion could be improved. Belgium still recognized a three-mile limit for territorial waters but was ready to agree to the extension of the limit to 12 miles, provided that the right of transit was respected in straits used for international navigation. It had accepted the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof, beyond the Limits of National Jurisdiction (General Assembly resolution 2749 (XXV)) but regretted that the desire expressed by many countries to set an excessive limit for national jurisdiction would substantially reduce the area under the jurisdiction of the Authority, as shown in the Secretariat's study on the economic significance in terms of sea-bed mineral resources of the various limits proposed for national jurisdiction.[2]

4. In the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Belgium had supported a strong régime if the limits of national jurisdiction were reasonable. Otherwise he could see no reason for establishing a costly administration which would be virtually unproductive.

5. Marine pollution was a matter of the greatest importance. Pollution from the land, which was the most important, was outside the competence of the Conference. That caused by the exploitation of the sea-bed in the international zone should be the responsibility of the Authority. For the areas under national jurisdiction, at least equal standards should be applied, but the coastal State should be entitled to impose additional requirements. The standards to be applied in the case of pollution from ships, which should be very strict, should be established by an international organization such as the Inter-Governmental Maritime Consultative Organization. It might be dangerous to allow the coastal State to impose additional requirements, although that State could provide useful service to the international community by seeing that the international standards were respected off its coasts.

6. Scientific research should be free to all, including the Authority within its own area, but the results should be published so that they were available to everyone.

7. While his delegation understood the problems of the archipelagic States, it was concerned that large, basically continental countries should claim such benefits, which would further decrease the international area.

8. Belgium was one of the few countries that had ratified the 1965 Convention on Transit Trade of Land-locked States.[3] The convention to be produced by the Conference must formally recognize those States' right of access to the sea. The working document on the concept of an intermediate zone submitted to the sea-bed Committee by the Netherlands delegation (A/9021 and Corr.1 and 3, vol. III, sect. 47) might form the basis of a useful compromise.

9. His delegation was also interested in the Secretary-General's suggestion at the 14th meeting of the Conference that States parties to the future convention should meet periodically to discuss the problems raised by its application and to resolve difficulties arising out of new uses of the sea.

10. Mr. MEDJAD (Algeria) said that the Conference, the fundamental aim of which was to found a new era of liberty, prosperity and well-being for all, was a continuation of the work of the recent sixth special session of the General Assembly, which had marked the awakening of a collective realization of the need to establish a more balanced and just international economic order. It was a unique opportunity for the powerful, highly developed countries to demonstrate their willingness to tackle the various items on the agenda and to translate their words into deeds in order to enable all nations in the world to attain full development.

11. The success of the Conference would also largely depend on its ability to find a solution to a matter which his delegation, like many others, regarded as particularly important, namely the representative nature of the Conference. The failure of the 1958 Geneva Conventions had been partly due to their lack of universality. The new world which the Conference was trying to build called for the co-operation of all and there was still time to rectify a serious error by allowing the national liberation movements to participate fully in its work. His delegation, true to the ideals set forth in the Charter and those which inspired the Organization of African Unity and to its traditional policy of support for just causes, appealed to all delegations to adopt an equitable decision. Only the Conference could decide that difficult question. In that connexion, he welcomed the presence of the delegation of Guinea-Bissau, which until recently had been denied the right to participate in international conferences, and considered that the true representatives of the peoples of South Viet-Nam and Cambodia should also be given that right.

12. The convention to be drafted should have the support of the largest possible number of countries and must therefore take due account of the legitimate interests of all, and in particular of the developing countries. It must emphasize the sea's growing role as a generator of well-being and social progress. Provisions must therefore be made for measures to combat any threat to the exclusively peaceful nature of the many uses of the sea. Although global solutions should be adopted in general, it should be accepted that regional arrangements might be more suitable in certain circumstances.

13. The area of national jurisdiction should consist of two indissolubly linked elements. The first would correspond to the well-known concept of territorial waters, but clarify certain aspects such as the complete sovereignty exercised by the coastal State over the passage of warships in peace-time. Reasonable limits could be set in that area, provided that the second element was accepted, namely a second zone, with a maximum limit of 200 miles from the baseline, in which the coastal State would exercise sovereign rights over the living and non-living resources, subject to certain restrictions. Since the exercise of those rights was essential to the development and even to the survival of some countries, its natural corollary was the recognition of other prerogatives because of the need to give those countries the means to ensure the protection of that area against any threats to its ecological balance and to provide access to the requisite technology to enable them to exploit the marine environment. Those countries, however, recognized the classic freedom of communications and consequently of the harmonious development of international economic relations and were ready to respect them. The new treaty should therefore make provisions for navigation, overflight, the laying of cables and under-sea pipelines, provided that the coastal States' exercise of its economic rights was not adversely affected.

14. With regard to the area beyond the limits of national jurisdiction, General Assembly resolution 2749 (XXV) laid down a number of principles which his delegation considered the only ones that should govern the law of the sea. That implied that the 1958 Conventions should be rapidly replaced by new rules better suited to present realities, and that, pending the establishment of the new legal system, no exploitation should be allowed because it would contravene principles already adopted by the international community.

15. Although that resolution was an indivisible whole, some of its principles were particularly important. The statement that the area beyond the limits of national jurisdiction was the common heritage of mankind was the corner-stone of the whole new legal system.

16. The International Authority to be established should have a juridical personality, financial autonomy and the privileges necessary for performing its mission. Its organs need consist only of an assembly with decision-making powers and a smaller executive council. No possibility of veto could be con-

[2] Document A/AC.138/87 and Corr. 1.

[3] United Nations, *Treaty Series*, vol. 597, p. 40.

sidered. That machinery would have the right to engage directly or in association with other entities in the exploration and exploitation of the resources of the zone. Any activities it was itself unable to carry out must remain under its effective control.

17. The Algerian delegation hoped that the future treaty concerning the exploitation of resources by the international machinery would incorporate preventative and compensatory measures designed to avoid or to remedy any eventual adverse effects that such exploitation might have for the developing countries.

18. A universally accepted agreement was possible in so far as all States realized their common destiny and made provisions for the special situations and specific interests of countries such as the geographically disadvantaged countries and the land-locked countries.

19. Algeria, although possessing a considerable coastline, fell into the category of the geographically disadvantaged States, since it bordered on a semi-enclosed sea which had practically no continental shelf and was poor in resources. As the question of the breadth of the zone of national jurisdiction and the nature of the rights to be exercised therein drew nearer to solution, the definition of the status of islands took on particular importance. Measures needed to be taken that would preclude already developed countries or those enjoying more than one seacoast from seriously injuring the interests of other countries, especially the least favoured from the economic point of view, and which, like Algeria, had only a Mediterranean coastline. The Conference of Heads of State and Government of the Organization of African Unity, in its Declaration of Addis Ababa in 1973 (A/CONF.62/33) had adopted a clear-cut position on that question and Algeria was convinced that the Conference was capable of devising a fair solution.

20. The question of straits used for international navigation was of particular importance in the context of semi-closed seas like the Mediterranean, and it concerned those coastal States whose only access to ocean space was through straits. In light of the vital role played by the sea in the communications and development of those countries, a special régime designed to avoid all hindrance to their maritime traffic needed to be set up for their benefit. Nevertheless, Algeria understood the preoccupations of certain straits States and was in favour of the establishment of a general régime of passage which would also take into account their legitimate interests. The Declaration of Addis Ababa which called for a definition based on objective criteria, was one of the instruments providing the basis for the working out of such a régime. In the case of straits linking a territorial sea to the high seas, however, the rule of innocent passage should be applied.

21. The question of land-locked States was of special interest to Africa, which was proud of the measures it had taken in favour of the land-locked countries on that continent. The Declaration of Addis Ababa had already recognized that they possessed the same rights as coastal States in regard to fishing resources in the economic zone. The recent Conference of Heads of State and Government of the Organization of African Unity had added its recognition of their right to access to the ocean spaces. The Conference should give universal recognition to that right and specify the modalities of its implementation. It should also give thought to adequate ways and means of making the right of equal access to the international zone and its resources a reality for the land-locked countries.

22. The progress of a legal system did not consist in the mere proclamation of abstract *de jure* equality but in compensating, in so far as possible, for *de facto* inequalities. Formulas similar to those proposed at the special session of the General Assembly on raw materials could serve as a valuable source of inspiration in that respect. It was the duty of the Conference to see that the outcasts of the earth were not banished from the seas.

Mr. Zegers (Chile), Vice-President, took the Chair.

23. Mr. OCHAN (Uganda) expressed his delegation's gratification at the representation of Namibia by the United Nations Council for that Territory. He regretted however the absence of the other national liberation movements recognized by the various regional organizations.

24. Uganda was situated almost 1,000 miles away from the nearest seaport, on which it depended for its imports and exports. His delegation was confident that the right of access to the sea, which was an established principle of customary international law, would be incorporated into the future convention. It was also hoped that the right of land-locked States to equal treatment in the use of port facilities would not be left out of the convention, since the right of access to the sea was meaningless without a corresponding right to use port facilities.

25. Uganda was ready to support the 12-mile territorial sea and the 200-mile exclusive economic zone, subject to the provisions of the Declaration of the Developing Land-Locked and other Geographically Disadvantaged States, adopted at Kampala (A/CONF.62/23).

26. As regards the exclusive economic zone, Uganda had at first been somewhat suspicious of that concept, as it feared a partition of the seas in the manner in which the colonial Powers had partitioned Africa in the late nineteenth century. Uganda had since been reassured by African coastal States of the validity of that concept. The Addis Ababa and Mogadiscio Summit Meetings of the Organization of African Unity had also declared in the spirit of African solidarity that the land-locked and geographically disadvantaged States would not only have the right of free access to the sea coupled with equal treatment in the use of all port facilities, but also the right to equal treatment in the exploitation of the living resources of the economic zone. Uganda recommended that the right of land-locked and other geographically disadvantaged States to equal treatment in the exploitation of living resources should be extended to include the mineral resources of the exclusive economic zone as well.

27. From 20 to 22 March 1974, Uganda had been host to a meeting of 19 land-locked and geographically disadvantaged States, which had adopted the Kampala Declaration on the essential rights and interests of those categories of States. That declaration would guide Uganda in the task of negotiating a law of the sea which it hoped would be universal. In taking that stand, Uganda was not motivated by selfish national interest, but by the hope that the world community might see the plight of the land-locked States in its correct perspective. It was no accident that a sizable number of the least developed countries were land-locked, and perhaps their salvation would to some extent be found in the resources of the oceans and seas. It was not equitable for the coastal States alone to benefit from the resources of the sea simply because of accidents of geography and, in some cases, the injustices of history.

28. Mr. YOLGA (Turkey) said that the diversity of geographical situations was one of the most important factors with which the Conference would have to deal if it was to give any meaning to the concepts of justice and equity. The seas themselves presented a wide variety of characteristics: there were wide-open seas and seas too narrow for the application of the new limits which the Conference was on the verge of setting for the economic zone or the territorial sea; there were closed seas bordered by only a few States; semi-closed seas limited by continental or island land masses, seas which were internal waters, and straits of differing widths and varying degrees of interest for international navigation.

29. The question of islands was even more complicated. Islands, however, were not all of equal importance; some were isolated in the oceans, others were situated at a reasonable distance from the territory of the State of which they were a part, while others again were far from that territory, resting on

the continental shelf, or even in the territorial sea of another State, thus creating a source of friction between the States concerned. The archipelagic States should be granted a régime reflecting their particular case. The interests of non-self-governing islands or islands under trusteeship should be guaranteed by appropriate arrangements of the International Authority, with due regard to relevant United Nations resolutions.

30. One of the major short-comings of the 1958 Conventions was their failure to make adequate provision for seas and islands possessing special characteristics. The new convention had to remedy that short-coming, especially in view of the fact that the enlarged territorial sea and the vast ocean spaces which would fall within national jurisdiction if the new concepts were approved would increase the dimensions of already existing problems and give rise to new ones.

31. The Conference should give serious consideration to the case of closed and semi-closed seas and that of islands far from the principal territory which were situated in the economic zone, the territorial sea or on the continental shelf of third States. If all islands were to be treated alike or on an equal footing with the continental territories, the application of the various new norms which were envisaged to islands isolated in the vast ocean spaces would diminish the area destined to make up the common heritage of mankind.

32. It was necessary therefore to avoid oversimplification under the pretext of seeking to work out rules of a general character which neglected the different categories of geographical situations.

33. The Turkish delegation was aware of the need to establish a uniform maximum limit to the territorial sea so as to fill in the gaps left by the 1958 and 1960 Conferences and put an end to the chaotic state of affairs which prevailed.

34. Nevertheless the situation of coastal States which did not border on wide oceans should not be lost sight of. There were, in fact, regions where several States bordered a narrow sea and where a very delicate balance had been established in regard to the territorial sea on the basis of the old norms. That could be seen from the example of the actual six-mile territorial waters of Turkey and Greece in the Aegean Sea as shown on the map which his delegation had distributed to the delegates. The extension of the territorial sea by one of the coastal States in such a sea was liable to upset the existing balance and harm the legitimate interests of the other States, interests which were not limited to navigation alone. The new convention had to include appropriate provisions for such regions, if new causes of friction and confrontation were to be avoided. In regard to the question of straits, those waters could be divided into three categories: major straits which had been used from time immemorial for international navigation; those which, while not fitting into the preceding category, were nevertheless useful or necessary for the communications of another country; and straits which concerned only the country to which they belonged. Only the first two categories were of interest to the international community. The major straits were of greater importance to the international community, while, in the case of the second category of straits, it would be enough to respect already acquired rights where such rights existed.

35. With regard to measures for protecting the interests of coastal States in respect of security, pollution, the prevention of collisions and other accidents, health regulations, and compensation for damages, the Norwegian proposal for the creation of an insurance pool to cover the growing risks to which straits States were exposed should be adopted. Another question meriting the attention of the Conference was the relation between the width and depth of straits and the tonnage and draught of vessels passing through those straits.

36. The adjacency criterion contained in the 1958 Geneva Convention on the Continental Shelf,[4] despite its initial imprecision, had been amply clarified by legal theorists and the case-law in the matter. In its judgement of 20 February 1969 in the North Sea Continental Shelf case,[5] the International Court of Justice had examined that criterion closely under the designation "natural prolongation" and had established it as the source of the right over the continental shelf. Since the notion of the continental shelf was essentially a geomorphological one, the criterion *par excellence* for its definition should be that of natural prolongation which meant an expanse of sea-bed extending to the area where the continent slope merged into the abyssal depths.

37. The isobath of 200 metres was a criterion which had the merit of mathematical accuracy and stability, but it was generally exceeded in practice. Its rejection or retention would not therefore make much difference. The most serious short-coming of the criterion of exploitability was not its subjective nature, which it did not have, since exploitability did not depend on the capabilities of individual countries but on those of technology in general. The trouble with the criterion was that the technological progress of the last 20 years had made almost all seas exploitable and that it had been used to excess. Accordingly, the same limits should be imposed in the use of the criterion as, for example, in the case of the economic zone. However, since the natural prolongation of the land mass was the basis for the claim to a continental shelf, when the natural prolongation exceeded the limit of the economic zone, the rights of the country concerned should, in principle, be preserved over the part of the shelf beyond that limit.

38. Negotiation was the essential method for reaching agreement on delimitation, whether it be of the continental shelf, the economic zone or other similar areas. That method had been established in article 6 of the Geneva Convention, in the relevant decisions of the International Court of Justice, in the United Nations Charter and by the traditional principles regulating international relations. Its short-coming was that, because it related to the political domain, it was not backed up by sanctions and that its application depended on the good faith or discretion of the parties concerned. It should therefore be subject to certain qualifications, such as those recommended by the International Court of Justice. If the methods prescribed in Article 33 of the Charter for the peaceful settlement of disputes did not bear fruit, some means of recourse to a legal body would be necessary. His delegation had noted with interest the suggestion that specialized departments should be set up in the Court for that purpose. Another, more important, short-coming of article 6 of the Convention on the Continental Shelf was its failure to define the term "special circumstances" precisely. Lawyers were agreed that islands should certainly fall under the heading of special circumstances.

39. Some delegations seemed to wish, quite unjustifiably, to make the equidistance method absolute. The International Court of Justice had considered that the equidistance method was not mandatory even for the States parties to the Geneva Convention; it had shown that in some cases the equidistance line might cut off a part of the natural prolongation of one State and assign it to another. When the configuration of the coasts and the geomorphology of the sea-bed made it possible for the method to be applied fairly, it could facilitate the work of the negotiators, but it would be unthinkable to apply it automatically in regions where special circumstances existed.

40. His delegation would support the proposals concerning the economic zone or patrimonial sea. His country was itself a developing country and had had to suffer the effects of the infamous Capitulations; it sympathized with the desire of the sponsors of the proposals to use the resources of their seas to feed their peoples and ensure their economic development.

41. Non-coastal States, especially developing ones, deserved the greatest attention on the part of the Conference since they were, in addition, deprived of the opportunities offered by the

[4] *Ibid.*, vol. 499, p. 312.

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

sea in so many areas. His delegation wished to draw attention to one point in particular: the right of access to the sea through the territory of one or several States and participation in the exploitation of the resources of the economic zone of the coastal State would never balance the advantages enjoyed by a country having direct access to the sea. The coastal State which granted such access was itself put at a disadvantage in comparison with other States which did not do so. Justice required that adequate rights should be accorded to both parties with respect to the extent of the economic zone, especially in the form of a larger share of the resources of the international zone. The means of applying the rules adopted in the interests of the non-coastal countries should be determined by bilateral or regional agreements.

42. His delegation was sympathetic to the cause of the States whose territory consisted entirely of an archipelago; the new convention should accord them the rights they deserved by virtue of their special situation. But it could not subscribe to the view that archipelagos forming part of continental States should enjoy similar rights, for that would give islands an unjustified advantage over continental territories and would be a new source of discord. If no clear distinction could be drawn between the two categories, his delegation would have to reserve its position on the problem.

43. The establishment of the régime for the international zone and the organization of its management should be based on the criterion of efficiency and should take proper account of the common good which was their goal. Without efficiency, the common heritage would not be of much benefit for mankind, and the principle of the common good would profit only a few countries if it was not scrupulously observed. The Assembly, in which all States would be equally represented, should be the main organ of the International Authority, with the power to decide general policy and budgetary matters, while the executive board would be empowered to decide questions of exploitation and the execution of projects.

44. For practical reasons and in order to encourage the accession of as many States as possible, his delegation thought that the texts drawn up by the Conference should not be combined in a single convention but should be separated into the main subject categories.

45. He noted that the Conference was almost fully universal and said that his delegation could only regret the absence of representatives of the liberation movements recognized by regional organizations. In conclusion, he affirmed that his country attached the greatest importance to the legal system to be established at Caracas and that his delegation would do its best to contribute to the success of the Conference, for the greatest good of mankind.

46. Mr. UPADHYAYA (Nepal) said that the aim of the Conference was to develop a comprehensive and universally acceptable law of the sea which would take care of the interests of all mankind while accommodating the particular interests of each nation. The representative of the United Kingdom had rightly observed that each country had its own interests to protect but that if that were to be its motive, the Conference would break up in disarray. The negotiations at the Conference would require sincerity, patience and mutual understanding as well as sagacity and statesmanship, but first and foremost it should be realized that no international order could be established without taking into consideration the international character of the world and its economy. Never before had mankind realized the need to supplement the efforts of each State to develop its economy by means of international co-operation and obligation. Resolution 3201 (S-VI), which had been adopted by consensus at the sixth special session of the General Assembly, had proclaimed the ideal of united determination to work urgently for the establishment of a new international economic order, in accordance with the principles set forth in paragraphs 4 (*b*) and (*c*) of the resolution.

47. The motive of the international community in convening a new Conference on the Law of the Sea was their desire to promote the economic interests of all mankind and of the developing countries in particular. Thus, the success of the Conference depended on the harmonization of national interests into a common understanding and obligation. The impetus had been provided by the developing countries, which wished to remedy the ills of the existing law of the sea and bring it into line with the interests of all rather than of the equipped few. The objective of the Conference was therefore the codification of an international law of the sea which was fair to all but protected the weak. His delegation's primary concern was to protect his country's rights and promote its interests, but it would always be ready to co-operate for the general good of the international community. His country would zealously protect its legal right to a share in the seas.

48. Nepal was a land-locked country and one of the least developed, being dependent solely on agricultural products. Its problem was to develop an infrastructure and transform a mediaeval economy into a modern one. It imported finished goods and exported basic commodities. Situated hundreds of miles from the sea, it had always had to cope with the hazards of transit to and from the sea. Transit was costly and time-consuming, and thus Nepal's export trade had to cope with unfair competition, while the imports on which it depended were similarly costly. Freedom of transit and free access to the sea were of course vital for the land-locked countries. The principle of free access had been established in international law and recognized in many multilateral conventions and by authorities on international law. His delegation was happy to note that participants in the Conference were according wider recognition to the right of free access. In particular, it welcomed the assurance given by the representative of India that India's neighbouring land-locked countries could rely on its continued support for their legitimate cause.

49. He recalled the statement he had made in the sea-bed Committee in 1972 that peace among neighbours could be made lasting only if no room was left for misunderstanding; there must be a clear code of conduct among nations, for the principle of sovereign equality could be upheld only if there was no possibility of the interpretation of the legitimate rights of one nation by other nations; the power of interpretation must always rest with an international legal authority, universally accepted, and established under international law. International law should reflect all basic principles, but his delegation recognized that the implementation of principles might require bilateral, subregional or regional understanding and arrangements. What was needed was an international guarantee for a code of conduct among nations.

50. Together with other land-locked countries, his delegation had submitted to the sea-bed Committee a paper (A/9021 and Corr.1 and 3, vol. II, sect. 5) which did not reflect the unilateral interests of land-locked countries but took into consideration all the legitimate interests of transit-coastal States. His delegation also supported the Kampala Declaration. It hoped that the principles and guidelines set forth in the two documents he had mentioned would satisfy the interests of the land-locked and otherwise geographically disadvantaged States on the one hand, and of coastal and transit countries on the other.

51. Article 2 of the Convention on the High Seas[6] recognized the equal freedom of fishing of the coastal and non-coastal States. In his delegation's view, the establishment of an exclusive economic zone or fishing zone would deprive the geographically disadvantaged States of their legally established right with respect to the living resources of the sea.

52. As to non-living resources, his delegation felt that any extension of sovereignty of jurisdiction over a part of the high seas would limit the present rights of the geographically disadvantaged States. There must therefore be a compensatory obli-

[6] United Nations, *Treaty Series*, vol. 450, p. 82.

gation on the part of the coastal States which benefited from such extension. The States which had unilaterally extended their jurisdiction should seek to reach an agreement with those countries which felt that their rights had been limited thereby. The Convention on the High Seas stated that the high seas were open to all nations and that no State could claim sovereignty over any part of them. Any unilateral extension of jurisdiction or claims to areas of the high seas as an exclusive economic zone were tantamount to the expansion of the dominion of the coastal State over the sea and its natural resources. That would narrow the area of high seas and would be out of keeping with the principle of the freedom of the high seas.

53. His delegation was not unsympathetic to the desire of the coastal States to protect the marine environment and explore and exploit the sea-bed area adjacent to their territorial waters. Nor was it unsympathetic to the wishes of its fellow developing countries. But his country was also developing and was in a worse position than developing coastal States. He urged them to apply the same norms of behaviour that they were requesting from the developed countries. The aim must be to close the gap between rich and poor. No country should be deprived of any benefit derived from an area belonging to the patrimony of mankind. The proposed economic zone should be determined in such a way as to preserve the economic viability of the international area. Everyone represented at the Conference was committed to respecting the concept of the common heritage of mankind. His delegation, together with others, had submitted to the sea-bed Committee draft articles dealing with the question (*ibid.*, vol. III, sect. 28).

54. The proposed international machinery could achieve its objective of exploring and exploiting the resources of the international area only if it was vested with comprehensive power to maintain its integrity. The Authority's powers must be derived from the very principles from which it had been born; it must ensure the order, safe development and rational management of the international area and the equitable sharing by all countries in the benefits derived therefrom. To that end there must be adequate and proportionate representation of the land-locked and other geographically disadvantaged States.

55. He did not wish to go into detail on all the topics before the Conference, but he noted that his delegation had developed a better understanding of the problems of archipelagic States and the problems of straits.

56. His delegation was convinced that a spirit of mutual understanding, goodwill and co-operation would prevail at the Conference, which would produce a just instrument for the benefit of all mankind. He appealed to all delegations to understand the plight of their least developed brethren who were the victims of injustice done by geography and to extend the hand of co-operation to their just cause.

57. Mr. THEODOROPOULOS (Greece), speaking in exercise of the right of reply, regretted that the representative of Turkey had chosen to transform the general debate into a discussion of his own problems. The purposes of the Conference would be better served by the avoidance of bilateral polemics. His own delegation had tried to set a proper tone in its statement, apparently in vain. It would not have exercised its right of reply if the representative of Turkey had not gone to the unusual length of distributing maps depicting Greece and its maritime territories, asking the Conference to debate such matters. He protested against such disruptive actions which illustrated Turkey's aims at the Conference and the nature of its contribution.

Invitation to national liberation movements recognized by the Organization of African Unity or by the League of Arab States to participate in the Conference as observers (*continued*)

58. Mr. ROYO (Panama) said that his delegation had not been present at the previous meeting when the Conference had voted on the question of its competence to consider the question of inviting the national liberation movements to participate as observers. In conformity with his Government's policy of support for the struggle for the elimination of colonialism and dependence, his delegation endorsed the view that the Conference was competent to consider the question. Faithful to the principles of ideological pluralism and the universality of the international community, his delegation would support, as it had done in other forums, the just aspirations of the African liberation movements, which were advancing towards full independence.

The meeting rose at 1 p.m.

40th meeting

Friday, 12 July 1974, at 3.30 p.m.

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

In the absence of the President, Mr. Abdel Hamid (Egypt), Vice-President, took the Chair.

General statements (*continued*)

1. Mr. DE ABAROA Y GOÑI (Spain) said he was gratified to note that the preliminary conditions for an effective solution to the problems of the sea had been largely met. The independence of many States attending the Conference had changed the appearance of the international community and had deeply altered the political situation as it had existed at the time of the Conference for the Codification of International Law at The Hague in 1930, or at the two Conferences on the law of the sea at Geneva and the needs and aspirations of peoples were also different. As the representative of the United Republic of Tanzania had pointed out, old doctrines such as the freedom of the seas were now valid only in so far as they could contribute to the development of mankind. There was a common reference point in the effort to find new solutions: the purposes and principles of the United Nations Charter.

2. Spain, situated in part of a peninsula between two seas, with islands and two large archipelagos which, together with the coast of the peninsula, had a shoreline of more than 5,000 kilometres, also had links with the sea by virtue of its history, its fisheries in near and distant waters, in which approximately 200,000 people earned their livelihood, its shipping (with the thirteenth largest merchant fleet in the world) and its shipbuilding which was the third largest such industry in the world. Care for the marine environment and the prevention of its pollution were imperatives for Spain, for it had to protect its tourist trade and the living resources of the sea, which were important factors in its economy.

3. For the reasons he had given, Spain had an interest in all the problems of the sea, and thus it was willing to tackle them