

# **Third United Nations Conference on the Law of the Sea**

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Document:-

**A/CONF.62/C.2/SR.19**

## **Summary records of meetings of the Second Committee 19<sup>th</sup> meeting**

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## 19th meeting

Tuesday, 30 July 1974, at 11.30 a.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

### Continental shelf (*continued*)

[*Agenda item 5*]

1. Mr. MIRCEA (Romania) said that his delegation believed that the principle of the natural prolongation of land territory should be supplemented by other more specific principles and rules, including that of the exercise by the coastal State of rights over areas situated off its sea frontage and the use of criteria and methods of delimitation for ensuring the exercise of such rights.
2. As far as the legal régime was concerned, his delegation was in favour of speaking of sovereign rights over the resources of the continental shelf, provided that it was clearly stipulated that such rights were exclusive and that the continental shelf area fell within the economic zone.
3. Should the question of scientific research be considered in the Second Committee, his delegation believed that the consent rule whereby the coastal State authorized research within the continental shelf area should not be further diluted, as it has been in 1958, by the notion that the coastal State could not withhold consent in the case of a request by a research institution to conduct activities of permanent scientific interest.
4. As far as the outer limit of the shelf was concerned, his delegation believed that a distance of up to 200 miles was satisfactory, especially in view of the need to prescribe well-defined limits for the area reserved for the benefit of all mankind. However, its approach to that point was flexible and did not exclude a solution whereby a depth criterion greater than the one selected in 1958 would apply together with other generally acceptable criteria.
5. On the other hand, many changes were required in the 1958 rules concerning delimitation between neighbouring States. Taking as a starting-point the need to provide a uniform régime in respect of the delimitation of marine or ocean space between two neighbouring States, his delegation had drafted certain provisions, which were contained in document A/CONF.62/C.2/L.18. It was pleased to note that the delegation of the Netherlands had submitted a proposal along similar lines (A/CONF.62/C.2/L.14). Unlike the 1958 Convention on the Continental Shelf,<sup>1</sup> article 1 of document A/CONF.62/C.2/L.18 emphasized that delimitation should be effected exclusively by agreement between two neighbouring States in accordance with equitable principles, taking into account all the circumstances affecting the marine or ocean area concerned and all relevant geographical, geological or other factors. That provision, which was basically similar to a paragraph in the judgment of the International Court of Justice in the North Sea Continental Shelf cases,<sup>2</sup> reflected the concern expressed by many delegations in their general statements and there was therefore no need to dwell on the reasons for its inclusion. As the International Court of Justice had stated in paragraph 86 of its judgment, the agreement rule was a special application of a principle which formed the basis of all international relations and its fundamental character was reinforced by the fact that a judicial or arbitral settlement was not generally accepted. The notion of delimitation by agreement in accordance with equitable principles was crucial to the development of a continental shelf concept.
6. Article 2 of his delegation's proposal introduced a principle of maritime law, the application of which gave effect to the basic principle of natural attachment to the coastal State. The notion that delimitation should, in principle, be effected between the coasts proper of neighbouring States was implied in the 1958 Geneva Conventions. However, it should be formulated more directly and clearly in the future convention and, furthermore, it should include, as a corollary, that the areas situated off the sea frontage of each State must be attributed thereto.
7. The provisions in paragraphs 2, 3 and 4 of article 2 derived logically from other principles laid down in the other articles. Although already reflected in legal doctrine and decisions and in the instrument of earlier Conferences, it seemed appropriate to include them in the future convention in order to facilitate delimitation agreements.
8. Although item 19 concerning the régime of islands, had yet to be discussed, his delegation felt justified in including in its proposal some provisions concerning islets and other small islands, together with low-tide elevations, which, under the 1958 Geneva Conventions, were not entitled to their own marine or ocean space. That principle was explicitly stated by the International Court of Justice in the North Sea Continental Shelf cases, while the records of the 1958 Geneva Conference on the Law of the Sea indicated that the question had been debated at length and that there had been various proposals to include a reference to islands in the definition of the continental shelf. For example, the delegations of Italy and Iran had proposed that the convention should provide for an exception to the general rule in the sense that islands belonging to a continuous continental shelf should not be taken into consideration for purposes of delimitation.<sup>3</sup> The representative of the United Kingdom had made a proposal along similar lines.<sup>4</sup> It was also of significance that the wording of article 1 (b) of the Convention on the Continental Shelf had been adopted by 41 votes to 10, with 25 abstentions. It might be argued that the concept being advanced by his delegation was already implied in international law, but it should not be forgotten that, unless it was spelled out, a principle tended to be subject to different interpretations. It therefore seemed absolutely essential that the special case of islets and small islands situated outside territorial waters and constituting eminences on the continental shelf should be the subject of an explicit provision in the future convention. It should be stressed that the provision in question did not refer to natural stretches of land forming part of an insular or archipelagic State nor to islands under colonial dependence or foreign domination.
9. The main purpose of article 3 of his delegation's proposal was to make it clear that neighbouring States were entirely free to select those methods of delimitation which would provide the most equitable solution. The basis for that provision was to be found in paragraph 90 of the judgment of the International Court of Justice to which he had referred earlier.
10. His delegation's primary motivation in submitting document A/CONF.62/C.2/L.18 was its belief that it was necessary to take into consideration the many different situations which

<sup>1</sup> United Nations, *Treaty Series*, vol. 499, p. 312.

<sup>2</sup> *North Sea Continental Shelf, Judgment*, I.C.J. Reports 1969, p. 3.

<sup>3</sup> *Official Records of the United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. 58.V.4), vol. VI, documents A/CONF.13/C.4/L.25/Rev.1 and A/CONF.13/C.4/L.60.

<sup>4</sup> *Ibid.*, document A/CONF.13/C.4/L.28.

could arise in practice and for which it was possible to formulate unequivocal rules.

11. Mr. POLLARD (Guyana) moved closure of the debate on the item under consideration. With the exception of one new proposal concerning the "natural prolongation" of land territory, the debate was redundant, and amounted to nothing more than a repetition of views which were already well known from the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

12. The CHAIRMAN observed that a number of countries represented on the present Committee had not been members of the sea-bed Committee. He suggested that the representative of Guyana could perhaps modify his motion at least to allow those delegations to speak.

13. Mr. POLLARD (Guyana) accepted that modification.

14. The CHAIRMAN said that in accordance with rule 29 of the rules of procedure, he would permit two speakers opposing closure to speak. Adoption of the motion for closure, under the same rule, would require a two-thirds majority of the representatives present and voting.

15. Mr. NJENGA (Kenya) said that his delegation opposed closure not only because it was on the list of speakers but because delegations had not had a chance to express their views on the new "natural prolongation" proposal. In particular, those delegations which opposed that proposal had not spoken. He hoped that even if the debate was closed, delegations would be given an opportunity to express their views on the proposal.

16. Mr. MBAYA (United Republic of Cameroon) said that the time had not yet come for closure of the debate. Certain delegations might wish to express their views on the proposals which had recently been developed in the Committee.

*The result of the vote was 61 against, and 24 in favour, with 22 absentions.*

*The motion was not adopted, having failed to obtain the required two-thirds majority.*

17. The CHAIRMAN said that the motion for closure had reflected the feeling of some delegations that many speakers were repeating views that had already been put forth in the sea-bed Committee. He appealed to all delegations to use their time for the discussion of new proposals and confine their references to past positions to mention of summary records of previous meetings, or other relevant documents.

18. Mr. ROSENNE (Israel) observed that a number of countries represented in the Committee had not participated in the work of the sea-bed Committee. Some were not even Members of the United Nations. Thus, not all delegations were equally familiar with the complex and bulky records of the sea-bed Committee.

19. The CHAIRMAN replied that delegations, in making their statements, could still refer to pertinent United Nations records, citing the appropriate volume and page number. Delegations, including non-Members of the United Nations, could then refer to those documents at their leisure.

20. Mr. CAFLISCH (Switzerland) said that his delegation, representing a land-locked State, took great interest in the question of the exploration and exploitation of sea resources beyond the territorial sea. It believed that establishment of an exclusive economic zone for coastal States adjacent to the territorial sea would necessarily involve the disappearance of the régime provided for in the Geneva Convention on the Continental Shelf. The two systems could not be combined. The Geneva régime could not be retained in the area extending to the edge of the continental margin, or even to the point where the sea-bed ceased to be exploitable.

21. He reminded the Committee of the Maltese proposal in the 1967 General Assembly,<sup>5</sup> which would have placed a large part of the resources of the sea-bed under a system of equitable collective exploitation, and restrained the growing control which individual States were gaining over those resources. That proposal had sought to remedy a major defect in the Geneva Convention by placing a stable outer limit on the sea area in which the coastal State exercised economic rights. Clearly, its goals would not be attained if the continental shelf régime were retained beyond the proposed economic zone.

22. Furthermore, retaining the continental shelf régime beyond the economic zone would greatly reduce the proposed international sea-bed area, and would, to a large extent, amount to the creation of a *mare clausum* with respect to marine resources. He shared the doubts expressed by the representative of Singapore at the 18th meeting about the value of a common heritage of mankind reduced to the abyssal plains or to unexploitable parts of the sea-bed. It was questionable whether an area truncated to that extent would even justify the establishment of an international authority to administer it.

23. The proposal of many coastal countries to establish an area of fixed breadth in which coastal States could exploit natural resources exclusively had been designed to replace the rules on the continental shelf contained in the 1958 Convention. Those rules, indeed, were considered not very equitable from the economic standpoint, particularly for States whose coasts dropped off abruptly and for developing countries which did not yet have the necessary means to explore and exploit shelf resources. They had also been criticized for allowing freedom of fishing to continue beyond the territorial sea. Since the Geneva régime had been found unsatisfactory and outdated in those respects, it would be difficult to maintain it alongside the proposed new régime. Moreover, it was to be feared that within several years a continental shelf régime beyond the economic zone would give rise to criticisms similar to those which were now being directed against the 1958 system.

24. The continental shelf régime established by the 1958 Convention worked to the disadvantage of a certain number of States, including land-locked States. That would be even more true if an exclusive economic zone were created, and it was easy to see that combining the two systems would aggravate the imbalance still further.

25. His delegation believed that the rights of coastal States over the continental shelf derived from the rules laid down in the 1958 Convention, and that any domestic legislation on the subject must adhere strictly to those rules. To speak of territoriality and national integrity in that connexion, as the representative of Canada had done in introducing document A/CONF.62/L.4 at the 46th plenary meeting, would be to draw conclusions from the judgment of the International Court of Justice in the North Sea Continental Shelf cases which went beyond what was permitted by present international law.

26. His delegation was unconvinced by the argument that the "natural prolongation" doctrine, put forth by several representatives to justify the existence of rights acquired as far as the outer limit of the continental margin, was implicit in the Geneva Convention, or had been "crystallized" by the International Court of Justice in the North Sea Continental Shelf cases. On the contrary, that doctrine found hardly any support in the text of the Convention, article 1 of which gave no importance to the geomorphological configuration of the sea-bed. Although it was true that the International Court of Justice had referred to the continental shelf as a prolongation of the territory of the coastal State, he wished to remind the Committee, as the representative of Singapore had done, that the extent of the shelf, under article 1 of the Convention, was

<sup>5</sup> Official Records of the General Assembly, Twenty-second Session, Annexes, agenda item 92, document A/6695.

limited by the notion of adjacency. Indeed, the Court, in paragraph 41 of its judgment, had said that by no stretch of the imagination could a point on the continental shelf situated about 100 miles, or even much less, from a given coast, be regarded as adjacent to that coast in the normal sense of "adjacency". That statement clearly contradicted the idea that the sea-bed extending beyond 200 miles to the outer limit of the continental margin, *de lege ferenda*, belonged to the continental shelf adjacent to the territorial sea.

27. Mr. VALENCIA RODRIGUEZ (Ecuador) said that Ecuador's lack of a broad continental shelf was one of the compelling reasons why it had been obliged to protect its rights by establishing a 200-mile territorial sea. Establishment of such a sea, and sovereignty over it, was the best way of protecting its many interests.

28. In his delegation's view, the continental shelf should be defined in very clear terms, with precise limits that left no room for doubt. The 1958 Geneva Convention, to which Ecuador was not a party, had not helped to establish a precise delimitation of the outer edge of the shelf and had created confusion because of the incompatibility of the criteria of depth and exploitability.

29. The provisions relating to the continental shelf in a new convention must follow the basic principle that no country should enjoy greater rights over the continental shelf than the coastal State, which needed the shelf for its development and for the survival of its people. The continental shelf was the natural prolongation of the territory of the coastal State, and should belong to that State up to the point where it ended geomorphologically, that is, the point where the abyssal depths began; it was an integral part of the territory of the coastal State, over which the State exercised sovereignty.

30. Since it was a geographic reality that the continental shelf of some States extended beyond the 200 miles of the territorial sea or proposed economic zone, it was unjust to deprive those States of rights which they had acquired without violating international law while broader rights were being recognized for other States in certain maritime areas. Any reduction in the rights of States over the continental shelf would be unjust. His delegation therefore supported the position of the delegation of Argentina that the continental shelf of a coastal State extended beyond its territorial sea to a distance of 200 nautical miles from the applicable baselines, or to the full breadth of the natural prolongation of its land territory when that exceeded 200 miles (see A/9021 and Corr.1 and 3, vol. III, sect. 26). His delegation would support a provision which reflected that idea.

31. The varying characteristics of the continental shelf in various regions and subregions would best be taken into account if solutions to questions relating to the shelf were sought at the regional level.

32. The future convention on the law of the sea must be based on respect for sovereignty of States and, in the case of the continental shelf, on the rights which various coastal States had acquired over the shelf up to the outer limit of the continental rise. In that connexion, the same respect should be given to rights which States had acquired and exercised over other maritime areas, and particularly over the territorial sea. It would not be just or equitable to respect rights of sovereignty over the continental shelf acquired without violating international law by virtue of the legislation of coastal States and not to do the same with regard to sovereign rights acquired by other States, on the same legal basis, over their territorial seas.

33. Mr. YOLGA (Turkey) said that the institution of the contiguous zone should be maintained so as not to create difficulties for countries whose geographical situation or legal system necessitated its retention. Other countries could at their own choosing, however, base their legislation solely on the notion of the economic zone.

34. The fact that in certain cases the continental shelf would be completely encompassed within the economic zone did not diminish its importance. In a good number of cases, the jurisdiction of the coastal State over the continental shelf and the economic zone would be complementary rather than parallel, while in other cases the extent of the continental shelf would be a determining factor in the delimitation of the economic zone.

35. As the international Court of Justice had recognized in its judgment in the North Sea Continental Shelf cases, the legal notion of the continental shelf was based upon the geomorphological reality that the continental shelf was a natural prolongation of the land territory. The new convention should therefore clarify and retain the geomorphological criterion. The retention or the discarding of the 200-metre isobath would have little significance for the régime of the continental shelf. It was essential, however, that the criterion of exploitability should no longer be linked to the ever-increasing advances of technology.

36. The draft article contained in document A/CONF.62/C.2/L.23 sponsored by the Turkish delegation was intended to improve upon the method of delimitation established in article 6 of the Geneva Convention on the Continental Shelf. While article 6 attached prime importance to the principle of delimitation by agreement between the parties, it did not make adequate provision for regular and effective application of that principle. According to the terms of article 6 and in the absence of any binding form of peaceful settlement, the parties to a dispute could refuse to enter into negotiations, or could enter into them for the sake of form, but break off negotiations at whim and then point to the breakdown of negotiations to justify unilateral delimitation. Paragraphs 1, 2 and 3 of the draft article should be considered in the light of such considerations.

37. The "equitable principles" referred to in paragraph 1 of the draft article were the hallmark of the entire method of delimitation, since any rule or procedure which did not produce equitable results should be considered as failing to fulfil its purpose.

38. Article 6 of the Geneva Convention was also defective in that it did not define the term "special circumstances". Nevertheless, such circumstances as the configuration of coasts, the existence of islands or of navigable channels had been mentioned at various stages of the development of the 1958 Convention. The International Court of Justice, as well, had stated in its judgment in the North Sea Continental Shelf cases that the general configuration of coasts and the presence of any special characteristics should be taken into account during negotiations to delimit the continental shelf.

39. In the interest of brevity, paragraph 2 of the draft article made mention of only those special circumstances which seemed most important. The list contained therein was therefore not exhaustive.

40. Paragraph 4 of the draft article left to the States involved the choice of methods to be employed for arriving at an equitable delimitation. Since the geographical situations of States were extremely varied, no single method could be universally applied without creating injustices. The method of the equidistance line, on which the International Court of Justice had already given its opinion, was not an exception to that rule. Despite its advantages of simplicity and mathematical precision, it could not be adopted as the unique and universally applicable method for delimiting the continental shelf. Endorsement in the future convention of only one of the possible methods, even if not made binding on all, would only create a new source of misunderstanding and conflict.

41. None of the elements of the draft article proposed by Turkey were new. They had been drawn from rules and general principles of international law which had been confirmed by case law, jurisprudence and the practice of States and the terminology adopted was that of the judgment of the Interna-

tional Court of Justice in the North Sea Continental Shelf cases.

42. Turning to the other draft article on delimitation submitted to the Committee, he noted that the principles his delegation considered essential were contained in document A/CONF.62/C.2/L.14. The Turkish delegation had reservations, however, with regard to paragraph 2 relating to interim solutions to be applied pending the final determination of delimitation lines, since the parties involved might go ahead with research or exploitation in the unsettled area, thus seriously complicating the eventual settlement.

43. The draft articles submitted by Romania (A/CONF.62/C.2/L.18) were worthy of attention. Article 3 did not single out any one method for delimiting the continental shelf, and thus left the choice to the negotiating parties.

44. With regard to article 5 of the draft articles proposed by Greece (A/CONF.62/C.2/L.25) concerning the preservation of existing rights with regard to the continental shelf, it should be pointed out that only such rights as had been acquired in accordance with the principles of international law could be preserved.

45. Mr. ARAIM (Iraq) said that the concept of the continental shelf was relatively new, and had undergone several changes since its introduction. The two criteria embodied in the 1958 Geneva Convention on the Continental Shelf, namely exploitability and depth, had since come under criticism. The depth criterion had been criticized on the grounds that it discriminated against States with sharply sloping continental shelves, while the exploitability criterion was said to have been rendered obsolete by the progress of technology. Both the exploitability criterion and the notion of the natural prolongation were inconsistent with the principle of the common heritage of mankind. His delegation believed that the limit of the continental shelf should be determined by a distance criterion which would be fair to all States and to mankind as a whole. The international sea-bed area beyond the limits of national jurisdiction should be economically viable.

46. His delegation hoped that the Conference would be able to work out an arrangement for the delimitation of the continental shelf between opposite and adjacent States, since the International Court of Justice in its judgment on the North Sea Continental Shelf cases had established that no single method could be satisfactory in all cases. The method of delimitation provided for in the future convention should take into account the special characteristics of the area and equitable principles. The question of special circumstances needed further elaboration so that States in areas where such circumstances existed could determine the methods of delimitation to be used in accordance with equitable principles.

47. Agreement between the parties concerned was essential and the means envisaged in Article 33 of the Charter of the United Nations would greatly facilitate the negotiations towards that end. There was a need for machinery for the settlement of disputes which might arise from negotiations on the delimitation of the continental shelf or concerning the interpretation and implementation of the provisions of the future convention.

48. His delegation supported the proposals contained in documents A/CONF.62/C.2/L.23 and 28, and recommended that they be taken into account in formulating the main trends of the deliberations.

49. Finally, the exploration and exploitation of the natural resources of the continental shelf should in no way affect the freedom of navigation in the superjacent waters. Measures to safeguard the freedom of navigation should be taken by the coastal State.

50. Mr. ANDERSEN (Iceland) said that since 1948 his Government had been endeavouring to apply the provisions of a law which stipulated that the entire continental shelf area

formed an economic zone over which Iceland claimed control. The Icelandic continental shelf had no mineral deposits, but provided an ideal environment for spawning areas and nursery grounds, as well as a food reservoir, for fish stocks.

51. In the light of consultations with other delegations, his delegation considered that the essential elements of document A/CONF.62/L.4 could provide a basis for constructive discussion leading to general agreement. Those elements were: first, a territorial sea of up to 12 miles with appropriate baselines and archipelagic principles; secondly an economic zone of up to 200 miles, together with provisions ensuring equitable rights for developing land-locked and geographically disadvantaged States; and, thirdly, the exercise of sovereign rights by the coastal State over the natural prolongation of its land territory where such prolongation extended beyond 200 miles. While the details of certain additional items would need to be worked out, the time had come to construct the basic framework of the future convention, and he therefore hoped that other delegations would see fit to join the sponsors of the working paper in document A/CONF.62/L.4.

52. One of the elements to which his delegation attached the greatest importance was the concept of the economic zone of up to 200 miles, which now undoubtedly enjoyed the firm support of the overwhelming majority of the international community. Such support, coming as it did from countries of all the regions of the world, showed that the system of narrow fishery limits, which was weighted entirely in favour of distant-water fishing nations at the expense of coastal States, was now obsolete. It was clear, therefore, that the time had come to draft specific articles embodying the newly acclaimed concept of a realistic economic zone.

53. Mr. PANUPONG (Thailand) said that his delegation strongly favoured the retention of the concept of the continental shelf. That was because since Thailand had ratified the 1958 Geneva Convention on the Continental Shelf, various legal rights had been created in accordance with the régime laid down therein. Long-term concessions had been granted to numerous companies and enterprises, both foreign and domestic, for the exploration of the continental shelf and the exploitation of its resources. Moreover, Thailand had entered into several international agreements on continental shelf boundaries with two of its neighbours. In short, an intricate web of legal relationships, both private and public, had already been established on the basis of the existing régime of the continental shelf. In the circumstances, his delegation was opposed to any proposal which would have the effect of directly or indirectly abolishing the concept of the continental shelf or which would affect in any way the rights and international agreements that derived from existing international law.

54. His delegation believed that recognition of the concept of the economic zone or the patrimonial sea entailed no legal or logical requirement to exclude the concept of the continental shelf. On the contrary, the two régimes were well able to co-exist in any new convention on the law of the sea. Indeed, the majority of the provisions of the 1958 Convention on the Continental Shelf could be transposed and incorporated into the new convention.

55. His delegation agreed with the view that the term "continental shelf" as defined in article 1 of the 1958 Convention was vague, imprecise and open-ended. Embodying as it did the criterion of exploitability, the definition was subject to liberal interpretations that favoured some coastal States. The widest of those interpretations ran counter to the concept of the common heritage of mankind and could deprive it of much of its substance. Indeed, the test of exploitability, if understood in its absolute sense, was inherently incompatible with the common heritage of mankind concept. There was, therefore, a clear need to redefine the term "continental shelf" eliminating the old criterion of exploitability and, at the same time, setting definite limits up to which a coastal State might claim the

adjacent sea-bed and subsoil as its continental shelf. To be acceptable to his delegation, a new definition must also take into account the geophysical and geomorphological characteristics of the area of the sea-bed concerned. In other words, it must be based on the notion of natural prolongation of the land domain, which was considered by the International Court of Justice to be the foundation of the continental shelf entitlement. In the view of his delegation, that notion was identical with the criterion of adjacency enshrined in the Geneva Convention. Thus, while his delegation would support a new definition based on the notion of natural prolongation or adjacency, it considered that such a definition should also prescribe, in the form of a fixed-distance formula, a maximum distance for the outer limit of the shelf. The provisions of the 1958 Convention offered little practical guidance on the delicate problem of the delimitation of the continental shelf boundary as between opposite or adjacent countries. Apart from stipulating that a boundary delimitation must be effected by agreement between the parties concerned, the Geneva Convention gave little indication of the principles on the basis of which the parties should carry out their negotiations with a view to achieving an agreed boundary line. Furthermore, the solution of the equidistance line, to be applied if the parties failed to reach agreement, was only valid in the absence of special circumstances. But, under the Convention, definition of the special circumstances and criteria for determining the boundary line, if there were special circumstances, were all left to the parties concerned to negotiate.

56. In the North Sea Continental Shelf cases of 1969, the International Court of Justice had been of the opinion that the rule of equidistance was not a mandatory rule of international law and that delimitation of a continental shelf boundary was to be effected by agreement in accordance with equitable principles. The Court had then indicated the circumstances and considerations which the parties should take into account in the course of their negotiations. His delegation firmly believed that no system of law could disregard equitable principles and was not convinced by the arguments for the compulsory appli-

cation of the rule of equidistance or by the criticisms levelled at equitable principles. For example, the application of the rule of equidistance did not necessarily result in an equitable division of the area and frequently the result was quite the reverse. Moreover, the rule of equidistance was sometimes discriminatory in its application in the sense that it attached decisive importance to some geographical features or circumstances which might be purely accidental, while at the same time completely ignoring other features and circumstances of greater relevance. The result could be the attribution to one country of an area which in fact was the natural prolongation of the land territory of another country.

57. Equitable principles had often been criticized on the grounds of vagueness, subjective nature and uncertainty of application. In his delegation's view, such criticism would be valid if equity were to be equated with natural justice; but that was not the case. Equitable principles as interpreted by the Court did not signify abstract justice nor did they imply a notion of equality. There could be no question, for instance, of assigning part of a country's continental shelf area to another country or of dividing the area equally between States with different lengths of coastline. Equitable principles as propounded by the Court meant, in his delegation's view, that the parties were free to apply a combination of different methods, rather than a rigid mathematical or cartographical formula. However, they must take into account all the relevant circumstances, including those bound up with the notion of natural prolongation or that of the general configuration of the respective coastlines. Such special circumstances could not be regarded as purely subjective.

58. In view of the foregoing, his delegation wished to support the incorporation into the future convention of the equitable principle concept, as upheld by the International Court of Justice. A spelling-out of the notion of special circumstances would rectify the defects of article 6 of the 1958 Geneva Convention on the Continental Shelf.

*The meeting rose at 1 p.m.*

## 20th meeting

Tuesday, 30 July 1974, at 3.05 p.m.

*Chairman:* Mr. Andrés AGUILAR (Venezuela).

### Continental shelf (*continued*)

[*Agenda item 5*]

1. Mr. SALLAH (Gambia) said that with the establishment of the economic zone in recognition of the principle of the common heritage of mankind, the old idea of the continental shelf, which benefited very few States, would disappear.
2. His country, as a geographically disadvantaged developing State, approved the concept of the exclusive economic zone as outlined in the Declaration of the Organization of African Unity on the issues of the law of the sea (A/CONF.62/33). That concept should replace the anachronistic idea of the continental shelf as outlined in the 1958 Convention on the Continental Shelf.<sup>1</sup> His delegation believed that it would be unfair to reserve for the exclusive use of a few States large portions of the sea-bed beyond the 200-mile limit. If the concept of the continental shelf were to survive, it would be largely at the expense of the common heritage of mankind, and no one

should then be surprised if the Conference was to be dubbed a monumental hoax.

3. His delegation was in favour of the median line solution for settling disputes and felt that the Conference should adopt a provision of that kind because it offered a fair means of establishing boundaries. It realized, however, that such a provision need not preclude other offshore boundary agreements between States.
4. Finally, his delegation thought that any convention must include provision for delimiting boundaries between adjacent and opposite States and machinery for the peaceful settlement of disputes among such States.
5. Mr. MOLODTSOV (Union of Soviet Socialist Republics) welcomed the trend in support of the concept of the continental shelf, one of the basic principles of the existing law of the sea. The Soviet Union, as a party to the 1958 Geneva Convention on the Continental Shelf, had incorporated that principle in its national legislation and had expressed support for it in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

<sup>1</sup> United Nations Treaty Series, vol. 499, p. 312.