Third United Nations Conference on the Law of the Sea

1973-1982
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Summary records of meetings of the Second Committee
32nd meeting

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use by all States, whether coastal or land-locked, for peaceful purposes. The proposals contained provisions concerning the freedoms to be exercised on the international seas (article 19), the scientific research régime (article 10), and the régime governing installations (articles 11 and 12). Regulations should be formulated to ensure proper international control over fisheries in order to preserve the renewable resources in the international sea. Coastal States had a special interest in maintaining the production of renewable resources in the international sea contiguous to their zone of national jurisdiction. A future régime should contain adequate provisions for the control and elimination of pollution, which endangered the ecological balance in the oceans. The concept of the high seas should be replaced by the concept of international seas. His delegation would provide further details on that point at the proposed joint meeting of the First and Second Committees to consider the competence of the International Sea-Bed Authority with regard to the sea-bed and the water column in the international zone.

77. Mr. WARIOBA (United Republic of Tanzania), speaking in exercise of the right of reply, said that the representative of the Soviet Union had made remarks which were clearly directed at his delegation's criticism of international fisheries commissions. The representative of the Soviet Union had stated that criticism of international organizations should be supported by adequate data. The Tanzanian delegation maintained that such data existed in the form of scientific reports, the Conventions establishing those commissions, and experience gained in areas where they had worked. In the past, his country had praised the fisheries commissions and had recommended them to other States; it would not have done so without proper data. It followed that that data was also valid when those commissions were being criticized. In his statement, he had emphasized the importance of enforcement. It was common knowledge that inspectors were not allowed on board vessels while they were fishing, that they could not go below deck and that they could not inspect gear; his criticism of the commissions had been based, *inter alia*, on those shortcomings. If there was a lack of data concerning the existing regional fisheries commissions, recommendations should not have been made to establish international commissions on the same basis.

78. Mr. OGISO (Japan), speaking in exercise of the right of reply, said that the representative of the United Republic of Tanzania had referred to a statement by two United States Senators which had appeared in the press implying that salmon of Bristol Bay origin would be depleted as a result of the fishing practices of Japanese fleets. He wished to clarify that statement as it was misleading in some respects and could lead to misunderstanding.

79. Japanese fishing fleets only fished up to the line of 175° longitude west in the middle of the Pacific Ocean. Most salmon from the Bristol river did not cross that line. At the beginning of the year, scientists had expressed concern that the return of salmon of Bristol origin might be reduced due to severe winter conditions in the past years, to 5 million fish, which was less than the amount required for reproduction. However, that estimate had been found to be incorrect. Recent surveys had shown that the return was over 10 million, which was entirely sufficient for reproduction purposes. Reports that Bristol-origin salmon had been depleted as a result of Japanese fishing practices were therefore incorrect.

80. The representative of the United Republic of Tanzania had also referred to Japanese halibut fisheries in that area. The Japanese fishing industry did not fish in areas where halibut were concentrated. Any halibut caught inadvertently was immediately returned to the seas.

81. Mr. WARIOBA (United Republic of Tanzania), speaking in exercise of the right of reply, said that he wished to make it clear that he had not referred to statements in the press concerning the area mentioned by the representative of Japan; he had said that he shared the same concern as Senators Muskie and Stevens.

The meeting rose at 6.15 p.m.

32nd meeting

Thursday, 8 August 1974, at 10.45 a.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Land-locked countries
[*Agenda item 9*]

Rights and interests of shelf-locked States and States with narrow shelves or short coastlines
[*Agenda item 10*]

1. Mr. UPADHYAYA (Nepal), introducing the explanatory paper on the draft articles relating to land-locked States contained in document A/CONF.62/C.2/L.29, said that the sponsors had tried to highlight the main issues that were vital for safeguarding the rights and interests of the land-locked countries. High priority should be given to the right of free access by land-locked countries to and from the sea as a firmly established and legally binding principle. That principle had been recognized in various international conventions and it should now be reaffirmed and elaborated in the new instrument on the law of the sea with due regard to present realities.

2. For years, even before the first United Nations Conference on the Law of the Sea, the land-locked countries had been making vigorous efforts to draw the attention of the entire international community to their problems and to the need for ensuring their rights in any future codification. To a remarkable extent, their efforts had been supported by the United Nations and other international agencies, in particular the three sessions of the United Nations Conference on Trade and Development (UNCTAD), and their right of free access to and from the sea should now be clearly elaborated in order to enable them to promote their international trade and their economic and industrial development. The land-locked countries depended on the port facilities provided by the transit countries and should now be given the right to establish certain installations under their own authority and control in those ports. Furthermore, adequate guarantees should be provided to ensure that the process of transit was less cumbersome and hazardous. The land-locked countries therefore considered the seven-Power draft articles submitted to the last meeting of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/9021 and Corr.1 and 3, vol. II, p. 16) in Geneva to be of supreme importance. They provided sufficient safeguards of the legitimate rights and interests of the transit States and clearly indicated that the land-locked countries were sincere in offering those safeguards. The land-locked countries therefore hoped that the seven-Power draft articles, the explanatory paper in document

A/CONF.62/C.2/L.29, and the Kampala Declaration of 1974 (A/CONF.62/23) would provide the basis for further negotiations in the Committee.

3. Mr. PISK (Czechoslovakia) said that legal norms concerning the rights and interests of the land-locked and other geographically disadvantaged States should become a part of the new codification of the international law of the sea. Those norms should in particular ensure free access by land-locked countries to and from the sea, their freedom of transit for that purpose, equality of treatment in the ports of transit States, free access to the international sea-bed area and participation in the international régime, including the machinery, and the equitable sharing in the benefits derived therefrom.

4. The right of land-locked States to free access to and from the sea must be considered as a firmly established and legally binding principle, to be reaffirmed, elaborated and surrounded by legal guarantees which would ensure its implementation in the new convention. His delegation earnestly hoped that the seven-Power draft articles relating to land-locked States would be reflected in the new codification that would emerge from the Conference. His delegation also wished to express its endorsement of the principles contained in the Kampala Declaration, which was based on similar ideas.

5. Document A/CONF.62/C.2/L.29 was an attempt to explain in greater detail the principles and norms which the land-locked countries wished to see embodied in the new convention on the law of the sea. The first part of the paper sought to explain why the previous legal instrument dealing with the right of access of land-locked States to the sea could not be considered satisfactory. That applied particularly to the 1958 Geneva Convention on the High Seas[1] which, while proclaiming the principle of free access to the sea and recognizing that States having no sea-coast had equal rights with coastal States, had not included adequate measures to ensure their effective exercise. The second part of the paper explained individual principles and provisions which were included in the draft articles. Two principles included in the draft articles should be regarded as fundamental: first, the land-locked States, irrespective of the origin and characteristics of their land-locked condition, should have the right of free access to and from the sea in order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the sea-bed and its resources on equal terms with coastal States; and secondly, in order to ensure the exercise of the right of free access to and from the sea, transit States must accord free and unrestricted transit to the traffic of land-locked States by all means of transport and communication in accordance with the provisions of the convention. The authors had attempted to reflect adequately existing practice and experience as developed in different parts of the world and to derive therefrom a common denominator that might be shared by all land-locked States and recognized by the entire international community. The draft articles did not include a detailed regulation, but followed the pattern of other principles to be included in the new codification. The land-locked countries were aware that many aspects of the provisions of the draft articles had to be implemented in special bilateral, regional or multilateral agreements with transit States. They also recognized that the exercise of their rights should in no way entail a threat to the sovereignty or other important interests of the transit States. The draft articles therefore included a number of clauses safeguarding the rights of transit States.

6. Previous legal instruments, such as the 1958 Geneva Convention on the High Seas and the 1965 New York Convention on Transit Trade of Land-locked States,[2] had secured freedom of transit for land-locked States "on a basis of reciprocity". Those provisions had apparently been based on a wrong supposition that both the land-locked and transit States had identical needs for transit arising from the same or comparable position. That was not the case. The purpose of free transit for land-locked States was to ensure the exercise of their right of access to and from the sea. Failing that, they would be deprived of the benefits deriving from the legal uses of the sea on an equal basis with coastal States. The draft articles therefore included a principle whereby reciprocity should not be a condition of free transit for land-locked States. The land-locked countries were, however, aware that in some cases the level of economic and other relations between a land-locked State and its transit neighbours might lead to agreements that would include the principle of reciprocity. The sponsors of the draft articles wished to avoid the adverse effects of both a strict application of the condition of reciprocity on the one hand, and its mandatory exclusion on the other.

7. Mr. KAFANDO (Upper Volta) said that his delegation was guided by the principle that the sea was a factor in the development of peoples, an element of solidarity between nations and a zone of peace and security. The three priorities with respect to the land-locked countries' rights were the right of access to the sea, the right of transit and the right of participation by developing land-locked countries in the exploration and exploitation of the resources of the exclusive economic zone.

8. Today the right of free access to the sea existed, to a certain extent, in bilateral agreements and in some multilateral instruments. However, the land-locked countries wished to see the timid provision of article 3 of the 1958 Convention on the High Seas strengthened and unequivocally stated in the new legal instrument. To that end, his delegation believed that the seven-Power draft articles on land-locked States (A/9021 and Corr.1 and 3, vol. II, p. 16) should be given particular attention by the Conference. The rights contained therein, namely, the right of free access to and from the sea without restriction and the right of free access to the sea-bed area, derived their justification from legal philosophy and from the very nature of the ocean space. The sea should not be the sole property of coastal States, but should be used by all States.

9. The old legal order governing the use of the oceans which had been based on political concerns and the desire for hegemony by the great maritime Powers had undergone a radical change. The *res communis* which was now the basis for that law was primarily economic considerations. A new concept of equality of rights had been introduced, placing all States, coastal or non-coastal, on an equal footing. However, that *de jure* equality had to be made *de facto* since the coastal States currently enjoyed certain priorities.

10. He recalled that the United Nations General Assembly, at its eleventh session, by resolution 1028 (XI), had drawn the attention of the international community to the necessity of providing adequate transit facilities for the land-locked countries in order to promote their international trade, thus implicitly imposing an obligation on transit States. That obligation was all the more important as the economic needs of the land-locked and coastal States were interdependent.

11. The fact remained, however, that the land-locked countries were far more deprived than their coastal neighbours, as reflected in their classification by UNCTAD among the least developed countries. The Conference should therefore find a definitive solution in order to ease the economic plight of the land-locked countries resulting from heavy transport costs, lack of industry and high cost of imports, all of which reduced their foreign exchange earnings. It was for that reason that the land-locked countries were attempting to ensure that transit traffic should not be subjected to any customs duties or taxes other than for services rendered. If free transit was recognized as a right, then the principle of reciprocity did not exist.

12. The land-locked countries should have the right to participate in the exploration and exploitation of the resources of

[1] United Nations, *Treaty Series*, vol. 450, p. 82.
[2] *Ibid.*, vol. 597, p. 41.

the exclusive economic zone. As the representative of Senegal had pointed out at the 25th meeting, that was one of the basic tenets of the West African Economic Community. While his country maintained excellent bilateral co-operation with Ghana and the Ivory Coast, the experience of regional integration showed that political considerations did enter into the picture. The rights of the land-locked countries, in order to be safeguarded, should therefore be laid down in a multilateral convention. Bilateral and regional arrangements should exist, but only in order to regulate the modalities and details of transit in the context of the laws of the coastal States. That was a flexible formula that would permit a reconciliation between respect for the sovereignty of the coastal States and the rights of the land-locked countries. He urged the States represented at the Conference to transcend national self-interest and negotiate a new, enlightened law of the sea by accepting compromise solutions.

13. Mr. MYRSTEN (Sweden) said that article 2 of document A/CONF.62/C.2/L.39, of which Sweden was a sponsor, granted a right to all geographically disadvantaged States, whether developing or developed, to participate in the exploitation of the living resources in the zones of neighbouring coastal States, while other proposals restricted that right to developing countries. When the economic zone concept had begun to emerge, his delegation had wondered whether the right to establish such zones should not rightly be confined to those countries which really needed them, in the first instance, the developing countries. It had been said, however, that practical considerations had convinced the originators of the economic zone concept that differences in the breadth of the jurisdiction area, for example, between neighbouring coastal States, should be avoided. It had also been pointed out that difficulties would arise if a developing coastal State should, in the future, reach a status that could be classified as developed. It now appeared that a majority of States had accepted the view that there would be no differentiation between developing and developed countries with respect to the breadth of the economic zone. It would then logically follow that no distinction should be made between developing and developed States which were geographically disadvantaged.

14. His delegation believed that since the land-locked or shelf-locked developed countries had only developed countries as neighbours, the different treatment of the rights of neighbouring disadvantaged countries would result in giving the developed coastal States more exclusive fishing rights in their economic zones. The developing coastal States, on the other hand, undertook to share the living resources of their economic zones with their geographically disadvantaged neighbours. His delegation had difficulty in understanding why highly developed coastal States should be entitled to reserve for themselves large parts of the living resources of the sea. It was even more difficult to conceive why developed coastal States should be accorded more extensive rights in their zones than developing coastal States. It therefore seemed to his delegation that no developing country would stand to lose by admitting rights for developed geographically disadvantaged countries within the zones of the neighbours of the latter.

15. The philosophy behind the provisions of article 3 was that the economic zone was a new concept in international law replacing the concept of the legal continental shelf. The proposal was aimed at striking a balance between the interests of coastal States on the one hand, and those of the geographically disadvantaged nations on the other. Much of the criticism of such a proposal had been based on the argument of acquired rights. The Conference was, however, entitled and expected to create new rules and was under no obligation to retain old concepts. It should be borne in mind that the same argument of acquired rights was applicable to those parts of the high seas which, according to the economic zone concept, would fall under the resource jurisdiction of coastal States. The right of all nations to fish on the high seas had been acknowledged for centuries, while the right to the resources of the continental shelf was of very recent date. Consistency demanded that the Conference could not do away with acquired rights in one context while retaining them in another.

16. There were no definitions of the concept of "other geographically disadvantaged States" and "neighbouring coastal States". The comparison between a "disadvantaged" State and its "advantaged" neighbour would determine the extent of the right to be enjoyed by the disadvantaged neighbour. That determination should be solved at the regional, subregional or bilateral level. The same applied to the term "neighbouring coastal States" and, in that connexion, his delegation was pleased to see the emphasis placed on regional fishery organizations in document A/CONF.62/C.2/L.40.

17. With respect to anadromous fish originating from geographically disadvantaged States, much had been said about salmon migrating from their home rivers to the high seas, where they could be fished indiscriminately by fishermen from other States. However, nothing had been said about those salmon returning from the high seas to their home rivers in geographically disadvantaged States. As the Swedish extensive tagging research clearly showed, a significant part of the recaptures were made in the territorial waters of other States. If the convention was to include a coastal State exclusive economic zone, due consideration must be given to the interests of the salmon-producing but geographically disadvantaged States so that arrangements could be made between the coastal States and the States of origin of anadromous fish in order to maintain an optimum suitable yield for the interested countries. Those regulations could be made either by bilateral or regional arrangements.

18. Mr. KUMI (Ghana) said that the problems of special interest groups involved rather delicate issues; the need for tact and care in assessing and evaluating them had been underscored on several occasions. The Conference should not threaten the unity of cohesive groups or see them dismembered. Any solution to the problems involved must accommodate conflicting interests.

19. There were two elements involved: the incontestable right of all States to the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction as the common heritage of mankind, and agreement on appropriate measures to ensure that geographically disadvantaged countries had access to resources under the sovereign jurisdiction of coastal States. It was the second element that had led to controversy and disagreement.

20. It would be virtually impossible for the Conference to try to spell out the details of regional or bilateral agreements conferring the right of transit through coastal States to the sea, but the convention should contain provisions that would make the conclusion of such agreements mandatory. There was no doubt that regional integration was fast becoming a fact of life: paragraph 9 in part C of the Declaration of the Organization of African Unity on the issues of the law of the sea (A/CONF.62/33) adequately reflected a spirit of accommodation and the trend towards integration.

21. His delegation sympathized with and shared the concerns of those who wished to see regional or subregional economic zones established as a solution to the problems of the land-locked and other geographically disadvantaged countries. There was considerable merit in the idea of establishing regional fishery zones, and to do so would be a welcome move towards regional economic integration. But the issue should be taken up by the appropriate continental or regional organizations. Even if the concept of a regional economic zone was accepted, there would still remain the crucial issue of the access of land-locked and other geographically disadvantaged countries to the zone. Such access should not compromise the secu-

rity of coastal States, and it must reflect the underlying principle of bilateral or multilateral agreements.

22. His delegation supported the legitimate demands of land-locked States for access to and the right to benefit from the living resources of the economic zone of neighbouring countries. The Declaration of the Organization of African Unity had endorsed that provision as a right and not merely as a principle. It followed that his delegation could not fully support all the articles submitted in document A/CONF.62/C.2/L.39, but it could accept the articles referring to the sharing of the living resources in the economic zone. His delegation interpreted the word "neighbouring" in terms of adjacency.

23. Mr. OCHAN (Uganda) said that a land-locked State's most evident disadvantage was the absence of a seaport—a facility that had a fundamental effect on the economy of any State. The sea offered the cheapest mode of transport and was often the only way to reach international markets. Because they had no sea-coasts, the access of land-locked States to the main avenues of international transport was indirect; the consequent high transport costs were a serious impediment to foreign trade and the economic development of most of those States. Legal, administrative and political problems often arose also. From the earliest times, land-locked territories had frequently had to face restrictions of various kinds on the movement of goods and persons between them and the seas through more advantageously placed territories. With the growth of trade, it had become necessary to find a balance between strict adherence to the sovereignty of coastal States and the land-locked States' need for international trade.

24. He reviewed the history of the progressive development of international law relating to land-locked and other geographically disadvantaged States as embodied in the Covenant of the League of Nations, the 1921 Barcelona Convention and Statute on Freedom of Transit,[3] the 1947 General Agreement on Tariffs and Trade (GATT), and the 1965 New York Convention on Transit Trade of Land-locked States. The review showed that the rights of land-locked and other geographically disadvantaged States were firmly established in international law and practice. The Conference must simply review that law, make the necessary amendments to it, and bring it into line with the reality of the contemporary world—a reality that took into account the legitimate wants, aspirations and claims of land-locked and other geographically disadvantaged States. It was in that spirit that he recommended consideration of the seven-Power draft articles on land-locked States submitted to the sea-bed Committee (A/9021 and Corr.1 and 3, vol. II, p. 16) as a basis for negotiations. The document embodied the important provisions of GATT and the New York Convention; in order to ensure that the issue of transit was resolved at the same time as other law of the sea matters it provided that the proposed draft articles should form an inseparable part of the law of the sea. Draft article II, paragraph 3, under which the access to the sea of the land-locked States would be the concern of the international community as a whole, was of great importance because the time had come when the fate of a large section of the world community must be safeguarded by that community. Although the international community should provide the over-all framework, there must be express clauses in any future codification of the law of the sea making it mandatory for States to enter into bilateral arrangements.

25. Document A/CONF.62/C.2/L.29 contained a fairly thorough analysis and discussion of his delegation's position on the item. He urged the Committee to use the document and also the Kampala Declaration as a basis for discussion and negotiations. The Declaration outlined the very basic legitimate aspirations of the land-locked and other geographically disadvantaged States. He also drew the Committee's attention to document A/CONF.62/C.2/L.39, of which his delegation was a sponsor. That document was another attempt to accommodate the interests of land-locked and other geographically disadvantaged States without disregarding the interests of other States.

26. Mr. TUERK (Austria) said that the right of the land-locked States to free access to the sea had long since become a well-established principle of international law. Article 3 of the 1958 Geneva Convention on the High Seas made the exercise of that right dependent on agreements between the States concerned. His country had satisfactorily concluded bilateral agreements with its neighbouring States, but it fully understood the situation of land-locked countries that had not found such a satisfactory solution. The explanatory paper in document A/CONF.62/C.2/L.29 contained an excellent analysis of the various problems of the land-locked countries.

27. The time had come to accommodate the legitimate interests of the land-locked and other geographically disadvantaged States and to harmonize them with those of other groups of States. Document A/CONF.62/C.2/L.39 stated the position of the land-locked and other geographically disadvantaged States on their participation in the exploration and exploitation of the living and non-living resources in the area beyond the territorial sea. As far as the rights of land-locked and other geographically disadvantaged States to those resources were concerned, no basic distinction should be made as to the nature of those resources. The countries involved were not asking for privileges, but for equality and non-discrimination—a status they believed they were entitled to as a matter of right.

28. The principle of the common heritage of mankind provided a firm basis for the participation of land-locked States in the exploitation of the resources of the area beyond the limits of national jurisdiction. It also implied their access to the area. There must be effective provision for a land-locked country or its enterprises to participate in the exploitation of the resources of the international area; in considering competing proposals for such exploitation, the unfavourable geographical location and resulting distortion of the competitive position of the land-locked States would have to be taken into account. In that way, the land-locked and other geographically disadvantaged States should be at least partly enabled to offset their obvious disadvantages, which were a direct consequence of their particular geographical position. The transfer of technology was therefore of the utmost importance; in most cases that was a prerequisite for a land-locked State to be able to participate actively in the exploitation of the international area. Even relatively highly industrialized States like his own lacked sufficient marine science and technological know-how.

29. The land-locked countries must be adequately represented in the various organs of the future International Sea-Bed Authority. Their representation in the council of the Authority should be roughly proportional to their number in the assembly. Because many land-locked countries were among the least developed in the world, it was of very great importance to them that the Authority should begin to function in the very near future. In distributing the benefits derived from its activity, the Authority should consider the stage of economic development of the recipient country, using the *per capita* gross national product as a primary indicator in determining the equitable share of benefits to be allotted to each of the countries concerned.

30. Lastly, the new law of the sea must provide the possibility for land-locked States to participate in marine scientific research.

31. Mr. NYAMDO (Mongolia) said that his country, as a land-locked country, attached the greatest importance to item 9, on which it had already explained its general position.

32. The right of land-locked countries to free access to and from the sea had been endorsed by all participants in the Con-

[3] League of Nations, *Treaty Series*, vol. VII, p. 11.

ference as a firmly established and legally binding principle of existing international law. Consequently, the main task of the Conference as far as the land-locked countries were concerned was to work out legal norms further elaborating their rights and interests.

33. His delegation was a sponsor of document A/CONF.62/C.2/L.29, the purpose of which was to explain in some detail the provisions of draft articles relating to land-locked States submitted to the sea-bed Committee on 2 August 1973 (*ibid*). He emphasized the importance of articles II and III of the draft articles and expressed his delegation's full agreement with the explanations concerning those two articles in document A/CONF.62/C.2/L.29. Article XVII stipulated that land-locked States should have the right of free access to and from the area of the sea-bed and should derive benefits from its resources—a provision which was in full conformity with 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)). Article XVIII provided that land-locked countries should have proportionate representation in the organs of the future international sea-bed machinery, particularly in its council, and article XIX that they should also have equal rights in the matter of decision-making.

34. The draft articles also adequately protected the legitimate rights and interests of the transit State. Under article XIV, the transit State could take any measures it deemed necessary to ensure that the exercise of the right of free and unrestricted transit should in no way infringe its legitimate interests.

35. The provisions contained in the draft articles dealt in a general way with the problems of land-locked countries and would certainly not exclude the conclusion of bilateral, regional or multilateral agreements providing for special arrangements. Indeed, the draft itself called for the settlement of specific questions by the land-locked and transit States concerned.

36. The new convention on the law of the sea, if it was to be comprehensive, must develop existing general principles on the rights of land-locked countries. The Conference should facilitate that task by firmly endorsing and elaborating the principle of the right of free access of land-locked countries to and from the sea. His delegation also hoped that the international community would give due consideration to the rights and interests of land-locked countries in the economic zone.

37. Mr. DIATTA (Senegal) said that his delegation attached the greatest importance to item 9.2, on the rights and interests of land-locked countries, and he stressed the difficulties experienced by those countries—the majority of which were situated on the African continent—in the struggle for development.

38. His delegation supported without any reservations the Declaration of the Heads of State and Government of the Organization of African Unity signed at Addis Ababa in May 1973 and at Mogadiscio in June 1974. A provision had been inserted in that Declaration to reflect the views of the land-locked countries concerning their right of access to the sea. Thus, the African States recognized: that the land-locked countries should be entitled to access to the sea and that a provision to that effect should be included in the universal convention to be elaborated by the Conference; and that the land-locked countries should have the right to exploit the living resources of neighbouring economic zones on an equal footing with the nationals of coastal States.

39. Those rights had also been affirmed by the General Assembly at its twenty-fifth session in resolution 2749 (XXV) and at its sixth special session in resolution 3202 (S-VI).

40. The economic and political importance of such rights was self-evident. Their main effect would be to narrow the ever-widening gap between developed and developing countries, thereby reducing the international tensions generated by feelings of disappointment on the part of nations which felt that they had been wronged.

41. The African countries were aware of the problems and had to some extent anticipated the law by giving land-locked countries access to port facilities. That reflected their eagerness for co-operation at the bilateral, subregional and regional levels. Thus the member countries of the West African Economic Community, three of which were land-locked countries, were striving to establish satisfactory arrangements for the joint exploitation of fishery resources.

42. Mr. RABAZA (Cuba) said that his delegation endorsed the right of the land-locked countries to free access to and from the sea because it was a basic principle of the law governing the freedom of the high seas. It believed, too, that the land-locked and geographically disadvantaged States should have the right to participate in the exploitation of the living resources in the economic zones of neighbouring coastal States.

43. He recalled the words of the President of Mexico, who at the 45th plenary meeting had expressed Mexico's concern about the situation of certain Caribbean States, whose problems would not be solved by the establishment of a patrimonial sea. The President had spoken of the need to take into account the just aspirations of those States and to make provision in the convention for regional or subregional agreements which would guarantee their nationals the right to exploit the living resources of the region. Mexico, he had said, was ready to start negotiations whenever the States concerned so desired.

44. Cuba which, by virtue of its geographical situation, had been the gateway to the new world in the centuries following its discovery, was today a geographically disadvantaged country. It therefore attached importance to the draft submitted by the Jamaican delegation concerning the rights of the geographically disadvantaged countries (A/CONF.62/C.2/L.35) and endorsed the provisions it contained.

45. Mr. ANDRES (Switzerland) observed that the existing law of the sea made provision for some of the rights of the land-locked countries. Some multilateral conventions adopted prior to the Geneva Conventions of 1958 had granted land-locked countries a number of basic rights, including: their right to sail under their own flags on the high seas; equality of treatment in seaports with regard to access to and the use of such ports; and free transit through the territory of States situated between them and the sea. The first of those rights had been confirmed in article 4 of the Geneva Convention on the High Seas and the second and third had been recognized, in principle, in article 3 of the same Convention. It was nevertheless essential that the articles of the convention prepared by the Third Conference should confirm all those rights clearly and reaffirm unambiguously the right of innocent passage to which the vessels of land-locked and coastal States were equally entitled, in accordance with article 14 of the Geneva Convention on the Territorial Sea and the Contiguous Zone.[4] The fact that some land-locked States might not actually possess a maritime fleet was irrelevant; the point was to confirm existing rights for every State without exception. Moreover, States that did not have ocean-going vessels currently might well acquire them in the future.

46. The land-locked States should continue to enjoy the freedoms referred to in article 2 of the Geneva Convention on the High Seas, in particular the freedoms of navigation and overflight, and should also be free to conduct scientific research. In principle, those freedoms should also be enjoyed in the proposed economic zone. The land-locked States were particularly concerned to see the principle of freedom to conduct scientific research preserved to the fullest possible extent.

47. The rights referred to had evolved within the context of international rules which were based on a simple division of

[4] United Nations, *Treaty Series*, vol. 516, p. 206.

maritime space, namely, a relatively narrow territorial sea under the sovereignty of the coastal States and the high seas which were open to all States, coastal and land-locked alike. The new element which had upset that simple division was the formulation of a number of unilateral claims concerning the coastal State's exclusive right to the resources of its continental shelf. That extension of jurisdiction—the external limit of which had been left unfortunately vague in the 1958 Geneva Convention—had upset the balance between coastal and land-locked States.

48. It went without saying that the institution of a broad zone in which the coastal State would have rights over all the resources would further aggravate that inequitable situation. That was why his delegation had decided to sponsor document A/CONF.62/C.2/L.39. Prevented by their geographic situation from benefiting from the resources of the continental shelf currently and from those of the economic zone in the future, the land-locked States would at the same time see the high seas, which had been open to them just as to the coastal States, considerably narrowed. Those circumstances provided the legal basis for the demand of the land-locked States to participate in the exploitation of the resources of the economic zone or, failing that, to receive adequate compensation. It must be remembered that the land-locked countries were all small States, of which most were developing or poor in natural resources and some were among the most disadvantaged. On the other hand, the majority of the States that would benefit from the creation of the economic zone were not poor.

49. There was nothing in law or in equity to justify a distinction between living and non-living resources. Furthermore, the advocates of the economic zone concept did not draw any such distinction in respect of the resources of the zone. Consequently any attempt to exclude the land-locked countries from the exploitation of either category of resources or the resultant benefits would be misguided, particularly where regional agreements implying special bonds or solidarity between the signatory States had been concluded.

50. Many land-locked and geographically disadvantaged countries were sorely lacking in mineral resources; Switzerland, for example, had none at all. Their interest in living resources to feed their population was self-evident.

51. Some delegations maintained that the resources of the economic zone—and they were referring exclusively to the living resources—should benefit only the developing land-locked or geographically disadvantaged States. His delegation had already pointed out that such a discriminatory attitude was completely unjustifiable. At the 28th meeting, the representative of Austria had rightly stated, moreover, that the sponsors of certain proposals drew no distinction between developed and developing coastal States when advocating the creation of an exclusive economic zone and that they were therefore unjustified in making a distinction when it came to the interests of the land-locked or geographically disadvantaged States within that zone. There seemed to be confusion between the concept of the economic zone and that of the international sea-bed area; the fact was that the two zones would serve completely different purposes. The proposed economic zone was designed to protect the national economic interests of all coastal States without distinction. The inequalities that would result from its creation as far as the land-locked and geographically disadvantaged countries were concerned should be offset by granting such countries the right to benefit directly or indirectly from the resources of the economic zones of the region. The international sea-bed area, on the other hand, would belong to and should benefit everyone, particularly the developing countries. Thus a distinction was drawn between developed and developing States with regard to that area, whereas in the case of the economic zone it was not.

52. The régime for the international sea-bed area should explicitly grant to the land-locked countries the right of free access to and from the area and the right to preferential benefits from the resources of the area. Furthermore, the land-locked countries should be represented in the small body of the Authority which would be responsible for administering those resources. Measures along those lines were not a charitable gesture but a meaningful application of the common heritage of mankind principle.

53. Mr. HARASZTI (Hungary) said that his delegation was a sponsor of the seven-Power draft articles on the land-locked countries submitted to the sea-bed Committee (A/9021 and Corr.1 and 3, vol. II, p. 16) and of the explanatory paper in document A/CONF.62/C.2/L.29.

54. As a land-locked country, Hungary attached great importance to the recognition in the future convention of the rights of the land-locked States to free access to the sea, freedom of navigation, and equitable sharing in the benefits of the oceans.

55. The 1958 Geneva Convention on the High Seas included provisions on the right of land-locked States to free transit through the territory of States situated between them and the sea and reaffirmed the right of their ships to receive treatment equal to that accorded to the ships of coastal States. Those provisions, which had proved inadequate, had been supplemented by the 1965 New York Convention on Transit Trade of Land-locked States, which contained more detailed provisions relating to the right of free access to the sea. However, only a relatively small number of States had become parties to the New York Convention and the scope of its application had been too narrow to be satisfactory.

56. His delegation therefore attached great importance to the inclusion in the new convention of detailed provisions on the rights of land-locked States and fervently hoped that they would be based on the seven-Power draft articles on land-locked countries. In particular, it was expecting the forthcoming convention to remedy certain deficiencies of the New York Convention. For example, as the representative of Czechoslovakia had pointed out earlier in the meeting, reciprocity should not be a condition for the freedom of transit of land-locked States.

57. The right of coastal States to an economic zone—which his country was prepared to recognize—entailed a major sacrifice for the land-locked States. His delegation therefore believed that the right of the latter to participate on just and reasonable terms in the exploitation of the living resources of the proposed economic zone should also be recognized in the future convention.

58. Mr. KAZEMI (Iran) said that his delegation supported the claim of the land-locked countries to the right of free access to and from the sea, which should be open to the commercial vessels of all States whether coastal or land-locked. Accordingly, his country, although not geographically speaking a transit State, had voluntarily accorded its only land-locked neighbour transit facilities to and from its ports on the strait of Hormuz on a reciprocal basis under bilateral agreements based on the principle of sovereign equality.

59. The land-locked States should have the right to participate in the exploration and exploitation of the sea-bed area beyond the limits of national jurisdiction and to be represented in the organs of the Sea-Bed Authority on an equal footing with coastal States. However, his delegation maintained its view that the coastal State held exclusive and inalienable rights over its continental shelf and that they could not be fundamentally modified. Therefore it could not agree with any proposal that would involve the sharing of revenues derived from the exploitation of the resources of the continental shelf. It would like that view, which was shared by a number of other delegations, to be reflected in the revised text of Informal Working Paper No. 3 as an alternative to provision XII of that paper.

60. His delegation wished to make some suggestions with regard to the legitimate aspirations of the land-locked countries to participate in the exploitation of the living resources in the seas adjacent to that neighbouring State. First, coastal States, whether transit or non-transit States, should, under bilateral or regional agreements, accord to the nationals of the land-locked States of their region or subregion preferential rights to fish in certain areas of their exclusive economic zones. Secondly, in view of the fact that the adoption of the 200-mile limit as the maximum breadth of the exclusive economic zone would place some oceanic States in an extremely enviable position in terms of the living resources of the sea, it seemed only right to provide that any State whose total gain in terms of actual economic zone would exceed 50 per cent, or the outer limits of whose economic zone would exceed 100 miles, should have the obligation to contribute a reasonable portion of the revenue from the exploitation of its living resources to the Sea-Bed Authority, for distribution among all land-locked countries, with special consideration given to the least developed land-locked States.

61. Iran, bordering as it did an enclosed sea, the Persian Gulf, and a semi-enclosed sea, the Gulf of Oman, could be considered a geographically disadvantaged country. Because of its geographical position, it could not fully benefit from the proposed 200-mile limit. None the less, it supported the aspirations of those coastal States which were able to exercise jurisdiction up to 200 miles. It believed, however, that a clear distinction must be drawn between the land-locked States and the geographically disadvantaged States. Since it was difficult to draw a clear-cut line between advantaged and disadvantaged States on the basis of geographical situation alone, the term "disadvantaged States" should be formulated in a legal definition which took account of economic and other factors.

62. The draft articles being prepared by certain coastal States concerning free access to and from the sea for land-locked States essentially reflected his delegation's position on the subject.

63. Mr. KORCHEVSKY (Byelorussian Soviet Socialist Republic) said that his delegation shared the feelings of the authors of document A/CONF.62/C.2/L.29 and supported their efforts to develop and improve existing international sea law, the provisions and principles of which would help to protect the specific interests of land-locked countries. It fully understood the opinion expressed in the fourth paragraph of the document and endorsed the points made in the first two sentences of the fifth paragraph.

64. His delegation was well aware of the many problems faced by land-locked countries in developing their economies. Consequently, it felt that the seven-Power draft articles on land-locked States (*ibid.*) could serve as a basis for legal provisions guaranteeing the rights and interests of the land-locked countries. A number of new points set out in document A/CONF.62/C.2/L.29 also had great merit. His delegation fully shared the feelings of the authors of the document as set out in Part E; the corresponding article in the seven-Power proposal should be amended in order not to make reciprocity a condition for the free transit of land-locked States. He was prepared to agree that many of the articles in that document could be made into a separate chapter on the problems of land-locked countries in the future convention. While he supported the retention of the general regulatory role of the new convention, he felt that a number of issues, such as those connected with transit facilities and routing for land-locked States, should be regulated by bilateral, regional or multilateral agreements. That was because it was easier to assess certain specific features of the relationships between countries at the regional or State level. One such feature was the existence of different social systems; he pointed out that in international practice there were certain limitations on the freedom of transit of individuals.

65. In tackling the problems of the land-locked countries the Conference must approach the drafting of a universal international instrument from the standpoint that all questions of ocean space were interrelated and must be considered together. It would thus be possible to take into account the interests of all States and to create the necessary conditions for opening negotiations in a spirit of compromise. The merit of the approach was demonstrated by the fact that a number of delegations had already shown readiness, on certain conditions, to adjust their positions considerably.

Mr. Njenga (Kenya), Vice-Chairman, took the Chair.

66. Mr. CHAO (Singapore) said that the fairest solution and the one which would most benefit all mankind would be to decide upon a 12-mile territorial sea, with the rest of the ocean falling under the jurisdiction and management of an International Authority. The Authority would exploit the non-living resources of the area for the benefit of all peoples and would lay down rules for the rational and equitable exploitation of the living resources by all States. An alternative solution would be the establishment of regional economic zones. His delegation had not heard any cogent reasons why its suggestions should not be adopted.

67. While his delegation maintained its views on that subject, it appreciated the desire of coastal States to have economic zones of their own. However, it would only support the establishment of an economic zone if the claims of the land-locked and other geographically disadvantaged States, as set out in document A/CONF.62/C.2/L.39, were met. The 1958 Geneva Conference—held before Singapore had attained its independence—had treated the land-locked and other geographically disadvantaged States unfairly. His delegation was therefore particularly anxious to see their rights secured in the future convention, since otherwise the land-locked and disadvantaged States would again be the losers in that coastal States would continue to exercise and affirm "acquired rights". His delegation had therefore been among the sponsors of document A/CONF.62/C.2/L.39 and was amenable to suggestions for its improvement.

68. He agreed with the representative of Iran that there was a need for a better definition of the term "disadvantaged States". Singapore had a territorial sea of no more than 4 miles and was clearly disadvantaged. His delegation looked forward to co-operating with the Iranian delegation in working out a definition.

69. Mr. KUMI (Ghana) said that he wished to make it clear that his delegation's support of the right of the land-locked States to exploit resources in the economic zone of coastal States was limited to living resources. It could not therefore support article 3 of document A/CONF.62/C.2/L.39, which referred to non-living resources.

The meeting rose at 12.55 p.m.