

Third United Nations Conference on the Law of the Sea

1973-1982

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**Statement by the Chairman of the Joint Committee of the Congress of Micronesia
submitted on behalf of the Congress by the United States of America**

*Extract from the Official Records of the Third United Nations Conference on the Law of
the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

Article 15

The coastal State shall exercise its rights and perform its duties in the economic zone without undue interference with other legitimate uses of the sea, including, subject to the provisions of this convention, the laying of cables and pipelines.

Article 16

The emplacement and use of artificial islands and other installations on the surface of the sea, in the waters and on the sea-bed and subsoil of the economic zone shall be subject to the authorization and regulation of the coastal State.

Article 17

In exercising their rights under this convention, States shall not interference with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Article 18

The coastal State shall ensure that any exploration and exploitation activity within its economic zone is carried out exclusively for peaceful purposes.

[Further specific articles will be required in relation to the economic zone.]

CONTINENTAL SHELF

Article 19

1. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources.

2. The continental shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles.

3. Paragraph 2 of this article shall be without prejudice to the provisions concerning delimitation between adjacent and opposite States contained in articles and other rules of international law.

[Further provisions will be required on the subject of article 19 including provisions to cover the precise demarcation of the limits of the continental margin beyond 200 miles; the use of the shelf for peaceful purposes only; delimitations between opposite and adjacent States, with retention of existing rights, including rights under bilateral agreements; and the relationship between the continental shelf and the economic zone.]

DOCUMENT A/CONF.62/L.5

Documentation of the Conference: note by the Secretary-General

[Original: English]
[8 August 1974]

Under resolution 3067 (XXVIII), the General Assembly transmitted to the Conference "the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and all other relevant documentation of the General Assembly and the Committee". Following from this decision of the General Assembly, the Conference decided, in adopting rule 32 of the rules of procedure, that "the initial documentation of the Conference shall consist of the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and of all other relevant documentation of the General Assembly and the Committee". In view of this provision and in order to avoid unnecessary reproduction and duplication of documentation, all amendments to and revisions of proposals contained in the initial documentation will identify the text involved by reference to the present document (A/CONF.62/L.5) and to the original symbol and number of the particular document concerned.

DOCUMENT A/CONF.62/L.6

Statement by the Chairman of the Joint Committee of the Congress of Micronesia submitted on behalf of the Congress by the United States of America*

[Original: English]
[27 August 1974]

INTRODUCTION

On behalf of the people of Micronesia, I express our appreciation for the opportunity to address this Conference to you, Sir, and to the United States, which administers Micronesia on behalf of the United Nations. I wish also to thank the host country, Venezuela, for the gracious hospitality shown to us. I shall cover only points of vital interest to Micronesia.

The views expressed in these remarks are not necessarily consistent with the positions of the United States Delegation. I speak for Micronesia and for its people, and for no one else.

Micronesia consists of more than two thousand small islands, scattered over a large area of the Central Pacific. Our

principal island groups are the Carolines, the Marshalls, and the Marianas. Our land area is extremely small, totalling only a little more than seven hundred square miles. Our population is fairly evenly distributed throughout the Micronesian area, with small numbers of people inhabiting large numbers of islands. With only two exceptions, all of our islands are less than 50 square miles in area. Our smallest inhabited islands are less than one square kilometer in area.

For hundreds of generations our people have depended upon our sea resources. The sea still provides our primary source of

*Circulated in accordance with the decision taken by the Conference at its 49th meeting.

food as it has in the past. For more than a thousand years most of our islands were woven together into a single political entity. Communication between islands in those days was provided by outrigger sail canoe. In many parts of Micronesia today that is still the means of communication.

Because our land area is so small, the life of islanders is focused on the sea. All aspects of our life reflect that focus on the sea, including our values and property concepts. Under those concepts our people own carefully defined and described areas of the sea, in some cases more than a hundred miles from the nearest islands, in the same way that they own land. The rights of islanders in these distant sea areas are clearly defined and they are inheritable. A violation of those rights is considered a wrongful act similar to a trespass on property.

As an emerging nation, our major goal is to become economically self-sufficient for only then will we be able to achieve true political independence. But because of our tiny land area we have literally no resources on land with which to establish a viable economy. We have no petroleum or minerals. Nearly all of our arable land is under cultivation, but still we must import food to feed our people. If we are to achieve economic viability and political freedom, we must rely on the resources of the sea surrounding our islands.

Micronesia is a UN Trust Territory. Next year it will be the last remaining trust territory of all those created by the United Nations following World War II. We are now negotiating with the United States for a new political status. Next year we shall have our Constitutional Convention. We consider ourselves a sovereign people, though the exercise of sovereignty by our own people has been temporarily suspended by forces of history over which we had no control. And therefore, we feel that we have the interests of a sovereign people to consider and protect at this Conference. No interest is more vital to us than our resource rights in the sea.

In that connexion, let me take this occasion to thank the United States, the Administering Authority for the Trust Territory of the Pacific islands, for its assistance in making possible our participation in this Conference. Mr. President, I would now like to address the substantive issues as they affect Micronesia.

ISLANDS

Suggestions have been made that, contrary to the equal treatment of islands under existing international law, small islands should be denied the benefits of a full economic zone. We have two kinds of islands in Micronesia: the so-called high islands, of volcanic origin, that stand frequently by themselves, and the so-called low islands of coral growth origin. The low islands are the surface portions of reef systems or atolls, enclosing a lagoon, and usually distributed at points around the lagoon. Almost all of our islands, however, whether high or low, are very small. For that reason, our people are all the more dependent upon and oriented to the sea. It is no exaggeration to say that Micronesians are not only especially dependent upon, but utterly dependent upon, the sea.

Small islands which have no land resources to speak of need the benefits of an economic zone and the sea's resources within it more desperately than any other territories. It would not be equity to deny the sea's resources to those who need them most.

Suggestions have also been made that uninhabited islands should not have a full economic zone. Almost all of our high islands, and almost all of our atolls, made up of low islands, are inhabited. But some islands are inhabited only part of the year, while others are used not as residences but for fishing or in some functional way other than for permanent habitation. They are all the same as vital a part of our economy and livelihood as some islands that may have permanent dwellings on them, but may have little or no fish resources near them. We do not believe that the criteria of inhabitation or size are practical or equitable.

Our views on the subject of a full zone for islands have been expressed in the discussions in Committee II ably and eloquently by the distinguished representatives of Fiji, Tonga, Western Samoa, the Cook Islands, Papua New Guinea, New Zealand, Trinidad & Tobago, and others. I shall not repeat their statements. But I do wish to quote briefly from the 1973 report of the Trusteeship Council to the Security Council of the United Nations, in which it took particular note of our situation. In its report to the Security Council, the Trusteeship Council said:

"Because of the importance to Micronesia of marine resources, it is important that those resources in areas of Micronesian sovereignty be protected, and the Council wishes to emphasize the responsibility which the Administering Authority has for this protection."¹⁷⁴

TERRITORIES UNDER FOREIGN DOMINATION

A strong trend has developed in this Conference to prevent colonial or foreign dominating Powers from reaping the benefits of the economic zones of dependent territories under their control. We fully share the concerns of the sponsors of various proposals to this end. But we join our Pacific neighbours—Fiji, New Zealand, Tonga, and Western Samoa—in feeling strongly that the equitable solution to this problem is to provide expressly in the convention that such politically disadvantaged territories shall be entitled to an economic zone, and that the rights and benefits of such zones shall belong to, and be exercisable only by, the inhabitants of such territories. Through any other approach, this Conference might be denying to dependent areas the very resources they most need to free themselves from that condition.

TERRITORIAL SEA MEASUREMENT

An issue of great importance to island States composed primarily of atolls and islands such as Micronesia, concerns the measurement of territorial seas around atolls. The lagoons of atolls are normally encircled by a continuous or substantially continuous reef system, most of which is submerged at low tide. The islands of the atoll are located on the reef. The lagoons have the character in every meaningful way of land-locked waters. By measuring the territorial sea from the islands rather than the reef system, however, portions of the lagoons of some atolls technically might be considered to be "high seas". Fiji, New Zealand, Tonga and Western Samoa have made proposals to remedy this situation, by measuring the territorial sea of an atoll from the contour of the reef system. We fully support this approach.

FISHERIES

I should like to make some brief remarks about the fisheries issue. The only resource of consequence in the sea around our islands is the tuna. We have no continental shelf; no prospects for finding petroleum; very limited quantities of other species of fish; and our seas are the deepest in the world, making deep sea mineral exploitation difficult or impossible for the foreseeable future. We therefore have a very special interest—a vital interest—in the treatment to be given to highly migratory species of fish at this Conference.

The suggestion has been made that the resource rights of coastal states for highly migratory species of fish found and taken in their economic zone should be different from and less than their rights to other species of fish. It is argued that highly migratory species spend more time on the high seas during a part of their life cycle than do the coastal species, and that consequently conservation requires regulating their harvesting on the high seas as well as in coastal States economic zones.

¹⁷⁴ *Official Records of the Security Council, Twenty-eighth Year, Special Supplement No. 1, para. 200.*

We agree with that point, but we wholly fail to see why different or additional conservation measures for particular species should lead to diminishing coastal State resource rights in their economic zones.

Where a particular species of fish anywhere is endangered for any reason, it should be protected. If such protection requires agreement among a few nations, such agreement should be procured. If such protection requires an organization to fulfil the functions of conservation and allocation of the allowable catch on the high seas, such an organization should be created and empowered.

If there is a difference of opinion about whether conservation by an organization is required, an impartial and expert judgement can be used to settle the matter, such as that of the Food and Agriculture Organization of the United Nations. Some delegations have suggested that course, and it seems to us eminently sensible.

But we do not agree that in order to improve conservation the rights of coastal States should be discriminated against in the case of any species. The solution to actual or potential conservation problems in the case of highly migratory species of fish is not to reduce the rights of coastal States, but to strengthen the means of conservation, and of allocation of the allowable catch.

We accept fully the principles of conservation and of full utilization of all species of fish. But entirely consistent with those principles, we believe that coastal States, including Micronesia, should have the following rights:

1. A clear and exclusive preference to the extent of their harvesting capacity to harvest all fish in their economic zone;
2. Coastal States, including Micronesia, should have reasonable compensation for all fish harvested in their economic zone by foreign flag vessels; and
3. They should have these rights clearly spelled out in the Convention.

We believe that these rights of coastal States should be given effect without possibilities of delay or evasion. Some parts of the world urgently require regional conservation measures now, and others will require them in the future. But unless and until such regional protection is brought about, coastal States should have the right to issue conservation and allocation regulations for their own economic zones.

Once the rights of the coastal State are clearly defined, we believe that it will be much easier to bring about regional protection. In any regional system, furthermore, we believe that enforcement provisions should be strong enough to insure

compliance both in the economic zone and on the high seas, and that these should be complemented by a system of swift, effective and compulsory dispute settlements that will be sensitive to the needs of small coastal States. We believe that a system embodying such a balance of interests of coastal and distant fishing nations is perfectly feasible.

ARCHIPELAGO

Another subject of great concern to Micronesia is our status as an archipelagic, mid-ocean, island State. The Congress of Micronesia in January of 1974 formally adopted the archipelagic position for Micronesia. Since coming to this Conference we have heard the expressed concerns of many that archipelagic régimes may impose burdens on navigation, and that this aspect of such régimes is an obstacle to recognition of the régime for some of our neighbours, to whom the aspect of security of their waters and control of navigation is of vital interest. On the other hand, it may be possible to find ways to harmonize those archipelagic concerns with the concern for adequate international navigation and transit of archipelagic waters. The complexities of this subject, as of others at this Conference, require further consideration, from which solutions may be found. We therefore reserve comment on this subject for the next session of the Conference.

POLLUTION

Finally, we wish to express our great concern that adequate means be found to protect the seas from pollution of all kinds. While the dangers of pollution from vessels or sea-bed activity are well recognized, we are also deeply concerned about the great unsolved problem of disposing of radio-active atomic waste materials. The people of Micronesia have very special feelings about this matter. Years ago, one solution adopted was to dump such waste materials in the deep sea near our islands. It is now clear that the hazards of doing so were not adequately understood. Not only Micronesia but the whole world must be assured against similar potentially disastrous experimentation and practices in the future.

CONCLUSION

We very much hope that the Conference will take into account our views and situation. We depend upon the international community not to discriminate against islands or island States in this great endeavour to develop a new and equitable Law of the Sea. We hope for a speedy and successful conclusion of the Conference in 1975.

DOCUMENT A/CONF.62/L.7

Australia, Belgium, Bolivia, Colombia, El Salvador, Luxembourg, Netherlands, Singapore and United States of America: working paper on the settlement of law of the sea disputes

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[27 August 1974]

The representatives of a number of countries have held informal consultations on issues connected with the settlement of disputes which may arise under the law of the sea convention. This working paper, resulting from those discussions, is presented as a possible framework for further discussions at the next session of the Conference. It sets out various possible alternatives, together with notes indicating relevant precedents. The paper does not necessarily reflect the proposals of individual Governments, and does not in any way preclude any sponsoring delegation from presenting later its own proposals on the subject.

Where only one text appears under a particular heading, this does not necessarily imply that there are no other opinions

concerning that question or that all delegations which have participated in the informal consultations agree on the necessity for such a provision.

I. OBLIGATION TO SETTLE DISPUTES UNDER THE CONVENTION BY PEACEFUL MEANS

Alternative A

The Contracting Parties shall settle any dispute between them relating to the interpretation or application of this Convention through the peaceful means indicated in Article 33 of the Charter of the United Nations.