United Nations Conference on the Law of the Sea

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Summary Records of the
1st to 5th Meetings of the Fifth Committee

Extract from the *Official Records of the United Nations Conference on the Law of The Sea, Volume VII (Fifth Committee (Question of Free Access to the Sea of Land-locked Countries))*

SUMMARY RECORDS OF THE FIFTH COMMITTEE

FIRST MEETING

Wednesday, 26 February 1958, at 5 p.m.

Acting-Chairman: Prince WAN WAITHAYAKON (Thailand)

Election of the Chairman

1. Mr. TUNKIN (Union of Soviet Socialist Republics) nominated Mr. Zourek (Czechoslovakia).

2. The ACTING-CHAIRMAN said that, as there was only one candidate, the Committee might wish to elect Mr. Zourek by acclamation. Unless he received any proposal to the contrary, he would assume that that procedure was generally acceptable.

Mr. Zourek (Czechoslovakia) was elected Chairman by acclamation.

The meeting rose at 5.5 p.m.

SECOND MEETING

Friday, 28 February 1958, at 4.40 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Election of the Vice-Chairman

1. Mr. TRUJILLO (Ecuador) nominated Mr. Guevara Arze (Bolivia).

2. The CHAIRMAN, after recalling rules 51 and 53 of the rules of procedure, said that, as Mr. Guevara Arze was the only candidate, he assumed the Committee would have no objection to electing him by acclamation.

Mr. Guevara Arze (Bolivia) was elected Vice-Chairman by acclamation.

Election of the Rapporteur

3. Mr. LESCURE (Argentina) nominated Mr. Tabibi (Afghanistan).

4. Mr. PERERA (Ceylon) seconded the nomination.

5. The CHAIRMAN said that, as there was again only one candidate, he assumed the Committee would have no objection to proceeding in the same way as for the election of the Vice-Chairman.

Mr. Tabibi (Afghanistan) was elected Rapporteur by acclamation.

6. Sir Gerald FITZMAURICE (United Kingdom) stressed that the fact that all of the Committee's officers came from land-locked countries did not in any way imply that the maritime States were not deeply interested in the problems with which the Committee would be dealing.

The meeting rose at 5 p.m.

THIRD MEETING

Wednesday, 5 March 1958, at 10.30 a.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Introductory statement by the Chairman

1. The CHAIRMAN made an introductory statement on the background to the question of free access to the sea of land-locked countries, and on the manner in which he thought the Committee should conduct its work.

2. Mr. GEAMANU (Romania), supported by Mr. PERERA (Ceylon), said that the Chairman's statement itself offered a basis for discussion and suggested that the verbatim text be circulated as a Committee document, so that delegations could study it.

It was so agreed.[1]

Organization of the work of the Committee

3. Mr. BELTRAMINO (Argentina) said that a general debate was justified, particularly as the General Assembly had not dealt with the particular item, and the International Law Commission had submitted no document on the subject. The Argentine delegation was prepared to accept as a basis of discussion the principles enunciated by the Preliminary Conference of Land-locked States (A/CONF.13/C.5/L.1, annex 7).

4. Mr. MASCARENHAS (Brazil) considered that, in view of the insufficient preparatory work on the substance of the question, the Committee should be apprised of the conclusions of the Economic Conference held at Buenos Aires in August and September 1957 under the auspices of the Organization of American States. Since one of the points in the ten-point declaration adopted by that conference dealt with the free access to the sea of land-locked countries, the report of the Conference should be placed at the Committee's disposal.[2]

5. In other respects, the Brazilian delegation agreed to the programme of work recommended by the Chairman.

6. Mr. CADIEUX (Canada) hoped that the text of the Buenos Aires declaration would be circulated to the members of the Committee.

7. The CHAIRMAN proposed that the Committee's first business should be a general debate on the question of free access to the sea of land-locked countries.

It was so agreed.

[1] See annex hereto.

[2] *Final Act, Conference and Organization Series, No. 58,* Pan American Union, Washington, D.C. An extract from the Declaration of Buenos Aires, together with resolutions XXIII, XXXVIII and XLI of the Conference, was circulated to members of the Committee as document A/CONF.13/C.5/L.4.

Study of the question of free access to the sea of land-locked countries

General debate

STATEMENT BY MR. BELTRAMINO (ARGENTINA)

8. Mr. BELTRAMINO (Argentina) said it was perfectly proper for the land-locked countries to wish the question of their access to the sea to be considered at the Conference. He drew attention in that connexion to the treaties which Argentina had concluded in the nineteenth century with Bolivia and Paraguay for the purpose of facilitating the access of the latter countries to the sea; the rights conferred by those treaties had come to be accepted as part of international law. The representative of Bolivia had accordingly been quite right in stating at the Preliminary Conference that the principles enunciated by that conference were not more extensive than those embodied in the bilateral treaties concluded by his country. It was gratifying to note that Argentina's relations with Bolivia and Paraguay in the matter of the transit of persons and goods had at all times been based on friendship and mutual understanding.

9. Undoubtedly, the study of the question should not be confined strictly to traditional principles; it should take full account of technical advances and of developments in relations between States. It was the Committee's function to determine whether the principles now recognized by international law were sufficient, or whether they should be modified or supplemented by convention. His own delegation considered that the recognition of certain rights, such as those connected with free zones, could not be obtained except through the conclusion of bilateral agreements.

10. Since the problems involved in the access of land-locked countries to the sea did not take the same form in every part of the world, he thought that if, as he hoped, the work of the Conference was to culminate in solutions applicable universally, the instruments embodying those solutions would have to be drafted in sufficiently flexible and broad terms to be capable of being applied and finding acceptance throughout the world. The Argentine delegation would support any proposal that took due account of the interests of the land-locked countries and at the same time of the need to ensure close and cordial relations between such countries and those having direct access to the sea.

11. The conclusion of a convention based on the principles enunciated by the Preliminary Conference (A/CONF.13/C.5/L.1, annex 7) was desirable. Those principles, however, required a thorough examination, and as yet delegations had not had the time to study them with the necessary care. The delegation of Argentina would learn with interest the viewpoints of the other delegations, especially of those of land-locked countries. It reserved the right to speak again later.

The meeting rose at 12.5 p.m.

Annex

STATEMENT MADE BY MR. ZOUREK (CZECHOSLOVAKIA), CHAIRMAN OF THE FIFTH COMMITTEE [1]

1. Today sees the opening of the proceedings of our committee, which is faced with the heavy and most responsible task of studying the régime of free access to the sea of land-locked countries and preparing the corresponding drafts for inclusion in the general codification of rules concerning the régime of the sea. We cannot blind ourselves to the difficulty and complexity of this task. Whereas the other main committees of the Conference can base their work from the beginning on the International Law Commission's very thorough and detailed draft (A/3159, chapter II), which is the fruit of several years of effort by a body of highly qualified jurists, the comments of governments and the conclusions from earlier discussions in the General Assembly of the United Nations, our Committee has before it problems which have not been thoroughly studied either by the International Law Commision or by the General Assembly. But this does not mean that we are beginning our important work of codification today without some initial preparation, without essential groundwork or without the prerequisites for reaching general agreement on this question among the States participating in the Conference.

2. The interdependence between the tasks of the other main committees of the Conference and those of the Committee on Free Access to the Sea of Land-locked Countries is, to my mind, obvious. The régime of the sea forms a single body of questions, one of which, as confirmed by General Assembly resolution 1105 (XI), is the situation of land-locked countries within the great family of nations, all of which enjoy the benefits deriving from the equality reigning among the members of the international community as regards use of the sea as a means of communication and a source of natural wealth.

3. For the first time in the history of international relations, a great work of codification in the realm of the law of the sea is being carried out as an organic whole; if this work is crowned with success, it will constitute the foundation of the law of the sea for decades to come. May this great undertaking, which it has by no means been easy to set on foot but which is seconded by the efforts of so many delegations to create general harmony among States, meet the expectations and the rightful claims of all members of the international community, whether maritime or land-locked States. In my view, all the prerequisites for attaining this objective are present. Agreement reached in our Committee would undoubtedly be a substantial contribution to the success of the Conference and an important factor in the search for balance in regulating the régime of the sea.

4. I think it will be not without profit to recall, before commencing our work, the main milestones passed in the development of the question before us.

5. At the eleventh session of the General Assembly of the United Nations, the delegations of certain land-locked States formally proposed the inclusion in the agenda for this conference of the right of free access to the sea for such States.[2] Under resolution 1105 (XI) of 21 February 1957, which was all but unanimously adopted by the General Assembly, the question of access to the sea of land-locked States was included among those to be codified at the Conference on the Law of the Sea. That is assuredly a clear enough sign that the question of the rights of land-locked States is considered one coming under the general regulation of the régime of the sea, which this conference has the happy task of codifying.

6. During the same eleventh session of the United Nations General Assembly, and also later, certain delegations held a broad exchange of views on the chief questions connected

[1] Circulated to members of the Committee as document A/CONF.13/C.5/L.2.

[2] See *Official Record of the General Assembly, Eleventh Session, Annexes*, Agenda item 53, document A/3520, para. 14, sub. paragraph iv.

with the codification of the right of free access to the sea of land-locked States. It is quite natural that the initiative in this matter should have been taken by the land-locked States, which arranged a number of meetings at New York in the autumn of 1957 to bring out the general principles on which codification should be based.

7. The United Nations Secretariat also made a considerable contribution towards providing a basis for our discussions by preparing a comprehensive study (A/CONF. 13/29) on the question of access to the sea of land-locked States, which brings together in orderly fashion and analyses a considerable quantity of international instruments governing the access to the sea of such States. I take this opportunity of thanking through the secretaries of our committee, Mr. Sandberg and Mr. Malek, on your and my own behalf, all those members of the United Nations Secretariat who helped to produce a preparatory study of such great value to all of us.

8. The last stage of the preparatory work for this conference was the preliminary conference of twelve land-locked States, convened by the Swiss Government at Geneva from 10 to 14 February 1958, and presided over by Ambassador Paul Ruegger. That meeting undoubtedly proved most useful and fruitful; but since it finished its work quite recently and, I suppose, not all delegations will have had an opportunity of studying the fairly copious documentation, I think it advisable to recall the broad lines of the proceedings and the findings of an international meeting which was of such undoubted importance for our work.

9. The Conference of Land-locked States had a dual importance from the standpoint of our present activities: first, the general discussion gave us an almost complete view of the circumstances in which the various land-locked States exercise their right of free access to the sea and the manner in which that right is at present safeguarded; secondly, the Conference prepared a resolution enunciating general principles which, in the present state of international law, govern the position of land-locked States in respect of access to the sea.

10. The statements by the delegations of the land-locked States showed that these States have obtained in international law in general a high degree of recognition for their right of free access to the sea, and safeguards concerning their exercise of this right through multilateral agreements, and above all by bilateral agreements concluded with coastal States and States of transit. Although the land-locked States exercise their right of free access to the sea in varying geographical, economic and political conditions, the Preliminary Conference succeeded in bringing out general all-round principles representing a minimum common denominator of the requirements of all land-locked States and governing passage to and from the sea for such States in existing international law.

11. When referring to the principles adopted at the Preliminary Conference as the foundation on which the codification of the rules governing access to the sea of land-locked States should rest, we should bear in mind that the right of free access to the sea is already embodied in international law; for land-locked States already enjoy the right to use the high seas, on the same footing as maritime States. In virtue of the principle of freedom of the high seas, as enunciated in article 27 of the International Law Commission's draft, the high seas are open to all nations, hence, to land-locked States also. This principle represents for such States a basis of specific rights, without which the exercise of the fundamental right concerning the use of the high seas would be impossible. These specific rights — the most important of which are the right of innocent passage through the territory of countries situated between a land-locked State and the sea and the right to use the ports of a coastal State — derive from peculiarities due to the geographical situation of land-locked States and the recognition of their vital economic interests. At the present time, when, compared with earlier centuries, economic relations have reached an unprecedented degree of intensity and constitute a factor helping to strengthen the bonds between all members of the international community, it is particularly important to ensure favourable conditions for friendly co-operation based on respect for the principle of equal rights in the matter of the use of the sea. In that way it will be possible to create, as advocated in Article 55 of the United Nations Charter, conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights. As our conference has been convened by, and is held under the auspices of, the United Nations, I think it well to recall at this point Article 56 of the Charter, which pledges all Member States to take joint and separate action in co-operation with the organization for the achievement of the purpose to which I have referred.

12. The Preliminary Conference of Land-locked States provides us with an example of the kind of co-operation advocated in the Charter, and the principles formulated by that conference in its final resolution (A/CONF.13/C.5/L.1, annex 7) may be regarded as a basis for our future work. The resolution adopted by the Preliminary Conference of Land-locked Countries contains seven general principles — with which, of course, the Conference did not presume to cover the entire scope of the right of free access to the sea.

13. Allow me briefly to recall the gist of the principles adopted at this preliminary conference.

14. Principle I, which may be regarded as the keystone of future regulation, is a statement of the right of land-locked States to free access to the sea, a right deriving from the principle of the freedom of the high seas. Indeed, without such a right, freedom of the high seas would lose its universality.

15. Principle II, embodying the right of a land-locked State to fly a maritime flag, is really nothing more than a restatement of the Barcelona Declaration of 1921, and thus does not, I feel, call for more detailed explanation.

16. Principle III likewise derives directly from the principle of freedom of the high seas, ensuring for ships on the high seas flying the flag of land-locked States the same treatment as is accorded to the vessels of any maritime State. The right to the same treatment in territorial and in internal waters is the logical corollary of this. But here the equality naturally applies only to the régime enjoyed by vessels of maritime States other than the territorial State, which, as a general rule, alone has the right to accord its own vessels more extensive rights — e.g., the exclusive right of engaging in coast-wise traffic.

17. Principle IV adopted at the Preliminary Conference deals with the rights of a land-locked State with respect to the use of maritime ports. According to this principle, the land-locked State is entitled to the most favoured treatment in the maritime ports of coastal States and under no circumstances to treatment less favourable than that accorded to the vessels of the coastal State as regards access to maritime ports, use of those ports and facilities of any kind that are usually accorded. This principle is confirmed by, in particular, article 2 of the Statute on the International Régime of Maritime Ports, annexed to the 1923 convention of the same name. It was precisely to take account of the peculiar position of land-locked States that a provision was included in paragraph 4 of the Protocol of Signature to the above-mentioned convention explicitly exempting countries with no sea-coast from the condition of reciprocity otherwise laid down by the Convention and the Statute on the Régime of Maritime Ports. This provision confirms the recognition of the right of land-locked States

to participation on equal terms in the use of maritime ports and of the need to compensate such States for their adverse geographical situation.

18. Principle V ensures the right of innocent transit of a land-locked State towards the sea, and vice versa through the territories of third States. This principle is of vital importance for land-locked countries, for without this right of transit, they would be unable to enjoy the benefits deriving from the freedom of the high seas.

19. Principle VI, expressing the right of a State of transit to take measures to protect its sovereignty and legitimate interests, should, in the opinion of the Preliminary Conference, form an integral part of any future regulation of the right of access to the sea. It is quite natural that the exercise of the right of land-locked States to free access to the sea must not infringe the fundamental prerogatives of a coastal State or State of transit. There can be no doubt that such States, preserving their sovereign power over their entire territory, are entitled to take any measures which a violation of their legitimate interests, especially with regard to security and public health, might render essential. In this way, the balance is ensured between the interests of land-locked States and those of States of transit.

20. The purpose of Principle VII is to ensure the continuance in force of all individual agreements governing the access of the various land-locked States to the sea. Nor, according to this principle, must the new codification be an obstacle to these States concluding such agreements with their neighbours in the future, provided that the new agreements do not establish a régime which is less favourable than that based on the seven principles I have just outlined. Clearly, the general corpus of regulations, which should embody a common denominator of the rights hitherto enjoyed by all land-locked States, should not constitute an obstacle to the conclusion of bilateral regulations according to these States individually more extensive rights than those flowing from the general régime.

21. Such are the seven principles contained in the resolution of the Preliminary Conference of Land-locked States. In addition, a further principle, which is of great significance both for the land-locked States and for coastal States and States of transit, was included in the preamble to the resolution in question. In view of the peculiar position of the land-locked States and the special régime accorded them as a result, there is no reason to accord that special régime *ipso facto* to third States on the strength of the most-favoured-nation clause, since the latter States are not in the same position as the land-locked States. In other words, the regulation of the right of land-locked States to free access to the sea is outside the sphere of operation of the most-favoured-nation clause.

22. In my opinion, the results of the Preliminary Conference are in themselves a sound basis for our general discussion. As I have already remarked, the list of general principles on which the right of free access to the sea is based must not be regarded as complete. Whether it will be felt necessary to add other principles will depend more particularly on the form of the draft emerging from our Committee's deliberations.

23. In the second phase of our work, it will be necessary to formulate more specific proposals, framing draft articles like those of the draft prepared by the International Law Commission.

24. Quite apart from the statements made by the delegations to the Preliminary Conference of Land-locked Sates, the documents assembled for it constitute a fund of interesting material which may lighten our task. First in this respect come the written statement of 26 August 1957 from the Permanent Mission of Afghanistan to the United Nations (A/CONF.13/C.5/L.1, annex 4), the memorandum of the Swiss Government for the attention of the United Nations Conference on the Law of the Sea, dated 31 January 1958 (A/CONF.13/C.5/L.1, annex 5), and the draft articles relating to access to the sea of land-locked countries submitted by the Czechoslovak delegation to the Preliminary Conference (A/CONF.13/C.5/L.1, annex 6). I am sure that all these documents will be closely studied by delegations and will at the same time be used in drafting proposals for discussion in our committee.

25. After that brief outline of the chief preparatory stages through which the question of the access of land-locked countries to the sea has passed, I should like to submit for the consideration of the members of the Fifth Committee some suggestions on the organization of our work at this conference.

26. In view of the nature of the question before this committee, I think it would be useful to hold a general discussion on the question as a whole. The need for a general discussion in our Committee is more urgent than in the other main committees, who nevertheless are likewise beginning their work with a general debate. Such a discussion can help to elucidate a few basic points which might be felt to be insufficiently clear; it can bring the viewpoints of the land-locked States and the maritime States closer together, and provide us wih some valuable criteria for the framing of the proposals which delegations will be submitting.

27. I am convinced that delegations will find it desirable to begin straight away discussing among themselves proposals for submission to the Committee, so that when the general discussion is closed — and it would naturally be preferable for all this to be done before the discussion is over — the members of the Committee may have concrete proposals before them.

28. It is perhaps a little too early to try to decide at this very meeting on the manner of organizing the discussion of such drafts as may be before us in the second phase of our work. The Committee will not be able to settle that question until later on.

29. Permit me, finally, to state my profound conviction that the important task entrusted to us by the General Assembly of the United Nations will be successfully performed and that the discussions in our Committee will be imbued with a spirit of constructive endeavour and mutual co-operation, and marked by loyal efforts to achieve positive results.

FOURTH MEETING

Monday, 10 March 1958, at 3 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Study of the question of free access to the sea of land-locked countries *(continued)*

General debate (continued)

STATEMENTS BY MR. MASCARENHAS (BRAZIL), MR. TABIBI (AFGHANISTAN), MR. GEAMANU (ROMANIA), MR. SHAHA (NEPAL), AND MR. PECHOTA (CZECHOSLOVAKIA)

1. Mr. MASCARENHAS (Brazil) thought it true to say that the study of all the questions connected with the free access to the sea of land-locked countries provided a means of establishing new modes of international co-operation and of ensuring better understanding between nations. Hence, if it succeeded in its difficult task, the Committee would be entitled to the greatest praise.

2. It would, of course, be very pleasant to wait until certain problems which arose from time to time solved themselves or were solved in accordance with existing procedures. That attitude, however, must be eschewed, for the development of human relations and the complexity of world affairs demanded a gradual change in the principles and practices of international law, so as to provide international relations with a firm legal basis. Furthermore, an effort should be made to give durability to the results achieved. That had been understood by all delegations, and it therefore seemed that the Conference had a good chance of achieving its aim, which in the last resort would be to the advantage of all peoples and States.

3. The Fifth Committee would certainly have many difficulties to overcome ; for the problem with which it was concerned was — so to speak — a new item on the agenda of international meetings, although it was a very old problem and although various countries, including Brazil, had concluded treaties dealing with it. On the whole, however, the present conference was the first occasion on which the land-locked countries, their maritime neighbours and other countries which had access to the sea had attempted to unite their efforts to secure the adoption of principles designed to widen the agreement already reached on the subject.

4. The Chairman had very ably shown how the work of the Fifth Committee was closely linked with the work of the four other committees of the Conference, and he had given a masterly account of the study of the question by the United Nations and other organizations. In doing so, he had emphasized in particular the importance of the bilateral agreements concluded by numerous countries taking part in the Conference, and the importance of the Preliminary Conference which had just been held at Geneva.

5. Brazil's position on the law of the sea had been clearly explained by Mr. Amado, the Brazilian representative, at the 489th meeting of the Sixth Committee of the General Assembly, on 4 December 1956,[1] and at the fourth meeting of the First Committee of the Conference on the Law of the Sea. In all the work of the Fifth Committee relating to the régime of the sea, the continental shelf, fisheries and the right to fly a flag, the Brazilian delegation would be guided by the views which Mr. Amado had expressed.

6. He recalled Brazil's participation in the work of certain international organizations, including GATT (General Agreement on Tariffs and Trade), and the treaties it had concluded with Bolivia and Paraguay. Those treaties had given the countries in question free access to the sea and had afforded them transit facilities, exemption from taxes, application of the Brazilian railway tariffs, a free port and a free zone for the warehousing of goods. That showed Brazil's willingness to co-operate in solving all problems and to listen with the greatest interest to the views of all delegations.

7. Its close relations with Paraguay and Bolivia — countries without access to the sea — had shown Brazil that the land-locked countries needed access to the sea in order to develop their economies and ensure the well-being of their population. Those relations had also shown Brazil that the adoption of certain principles and practices was necessary to safeguard the rights of all the States concerned. It was also particularly necessary to reconcile the sovereign rights of the coastal States with the rights claimed by the land-locked States. The reconciliation of those rights was an essential condition for the acceptability of an international agreement.

8. It was no less important to study in detail the conditions peculiar to every land-locked State or group of States, for it would be a waste of time and effort to attempt to derive instruction and deduce general rules from the study of an isolated case. However much work that task entailed, the Fifth Committee should undertake it, for the stake was too great to permit of ill-considered haste, which might jeopardize the results already achieved. It was better to go forward slowly but surely. The Committee would succeed, but to that end delegations must make the fullest use of the experience gained, take recognized practices into account, be guided by the existing documents, and rely on the treaties already concluded.

9. The Brazilian delegation would give its full support to any solutions which the Committee thought fit to adopt with regard to the free access of land-locked countries to the sea. It hoped the solutions proposed would take into account the need for reconciling aspirations and theories with the facts underlying the relations between sovereign States.

10. Mr. TABIBI (Afghanistan) said that the governments of the land-locked countries could adopt an entirely objective approach to various questions of maritime law which did not concern them directly ; they were anxious, however, that the principles governing their own rights should be reaffirmed, for failing that there could be no absolutely comprehensive international convention on the law of the sea. The rights of the land-locked countries had already been the subject of numerous international instruments, among which should be mentioned the Treaty of Versailles, the Treaty of St. Germain-en-Laye of 1919, the resolutions adopted by the Conference of Barcelona in 1921, the General Agreement on Tariffs and Trade, and the Havana Charter of 1948. To those international instruments should be added the resolutions 1028 (XI) and 1105 (XI) adopted by the General Assembly of the United Nations on 20 and 21 February 1957 and many bilateral or multilateral agreements. All those provisions designed to ensure respect for the rights of land-locked States were based on legal reasoning and practical considerations. In that connexion, he recalled the work of such famous jurists as Grotius, Thomas Jefferson, Georges Scelle and Charles Hyde, who had all provided legal justification for the right of access to the sea. Similarly, there were practical reasons for recognizing the right of land-locked States to enjoy transit facilities through the territory of other countries.

11. For all those reasons, the Afghan delegation considered that the Conference should endeavour to codify all the recognized principles relating to the rights of land-locked States.

12. That was the spirit in which the representatives of those States, desirous of making their contribution to a solution of the problem, had held a preliminary confe-

[1] See *Official Records of the General Assembly, Eleventh Session, Sixth Committee.*

rence at Geneva from 10 to 14 February 1958, the proceedings of which were recorded in the memorandum bearing the symbol A/CONF.13/C.5/L.1. He wished to draw the Commission's attention to annex 4 to that document, in which the views of the Afghan delegation were set out, and also to annex 6, which contained the text of the draft articles prepared by the Czechoslovak delegation. The seven principles enunciated in annex 7 might assist the Conference with its drafting work, although that list was in no sense limitative.

13. To sum up the views of his delegation, it was necessary to confer a more precise status on the land-locked States and to prepare an instrument which could do more to ensure the development of international maritime law than the Barcelona Conference had been able to do. The Conference should approach the exalted task of codifying the law of the sea from a practical point of view, it should endeavour to promote fruitful co-operation between those States that enjoyed a favourable geographical situation and their less fortunate neighbours. In conclusion, he wished to pay a tribute to the Governments of Argentina and Brazil, which had already set a praiseworthy example of co-operation by granting their neighbours free access to the sea. That generous gesture should be an encouragement to the Conference.

14. Mr. GEAMANU (Romania) stressed his country's deep interest in the question of access to the sea of land-locked countries. Although it had a coastline itself, Romania had supported the proposal submitted at the eleventh session of the General Assembly to refer to the Conference on the Law of the Sea the complex question of free access of land-locked countries to the sea. In the desire to pursue its policy of international co-operation, the Romanian Government considered that a satisfactory settlement of that question was one of the conditions for the development of harmonious economic relations between all countries. The Romanian delegation would therefore give careful consideration to any proposal for regulation of the matter that would facilitate access to the sea for land-locked countries. He intended to speak again at a later stage in the discussion.

15. Mr. SHAHA (Nepal) said that he wished, first of all, on behalf of his delegation, to thank Sir Gerald Fitzmaurice for having expressed at the second meeting the United Kingdom delegation's deep interest in the proceedings of the Fifth Committee. Such a display of interest by the delegation of a State which was one of the greatest and oldest maritime powers augured well for the success of the Conference. He also thanked the representatives of Argentina, Brazil and Romania for their unequivocal expression of their countries' interest in the cause of the land-locked countries.

16. Nepal was a completely land-locked country, separated from the sea to the south by India and to the north by the Himalayas and China. Its unfavourable geographical situation had prevented it from sharing in modern progress and retarded the growth of its foreign trade. In olden days, Nepal, being situated on the main land route between India and Tibet and central Asia, had enjoyed a flourishing trade with its neighbours. That trade had declined with the beginning of the era sometimes referred to as the " age of steam navigation ". At the present time, Nepal hardly traded with any country but India, the products it imported coming mainly from or through India. He was glad to acknowledge that India had always given Nepal every facility in that field. In July 1950, Nepal had concluded a trade treaty with India, some of the provisions of which had been amended by another agreement concluded in 1957, article 1 of which gave the Government of Nepal an unlimited right to convey goods in transit through Indian territory and ports. Nepal was convinced that arrangements for the exercise of that right would be worked out in due course. In Nepal's view, the right of transit and the right of access to the sea should not be viewed solely from the point of view of a land-locked country's present requirements, but also from that of the country's subsequent economic development.

17. Freedom of the high seas had no meaning for land-locked countries unless the right of access to the sea was first guaranteed. That right was a corollary to and a logical consequence of the concept of freedom of the high seas. Of what earthly use for such countries were grandiloquent statements about the exploitation of the natural resources of the sea for the benefit of mankind and the right of all States to participate in maritime traffic if, in practice, they had no access to the sea? Access of land-locked countries to the sea was bound up with the more general question of the right of transit. That right had been granted to certain land-locked countries by bilateral, and sometimes even by multilateral agreements. Among multilateral agreements, special mention should be made of the Covenant of the League of Nations, the conventions adopted by the General Conferences held at Barcelona in 1921 and at Geneva in 1923, the Havana Charter for an International Trade Organization, and the General Agreement on Tariffs and Trade. But at the time when those multilateral agreements had been adopted, most of the countries in Asia had not yet won their independence, and hence had played no effective part in drafting the agreements. It was easy to understand the importance to such countries of the opportunity afforded them by the present conference to participate in the study of a question which was vital for them and of the greatest moment for their development.

18. It was comforting to note that at the Preliminary Conference held at Geneva all the land-locked countries, despite the special problems facing each of them as a result of their different geographical and economic situations, had nevertheless been unanimous in recognizing and stressing the importance of the present occasion and the opportunities it afforded for a reaffirmation, in connexion with the proposed codification of the law of the sea, of the rights granted under international law to land-locked countries (A/CONF.13/C.5/L.1, para. 11). It was no less comforting that they had agreed on the drafting of seven general principles which were already written into international practice and which the Conference might codify. The land-locked countries which had taken part in the preliminary conference requested the Conference to put into legal written form the principles already applied in international relations. In the opinion of the Nepalese delegation, those principles should be based not only on international customary law and multilateral agreements, but also on bilateral agreements.

19. The countries which had taken part in the prelimi-

nary conference had not expressed themselves as dissatisfied with the arrangements they had made with their neighbours concerning their right of access to the sea and, in taking part in the Conference, they had had no intention of forming a bloc against the coastal States. Their sole purpose had been to enunciate certain principles concerning various aspects of the question on the agenda of the Conference. They were all aware that they needed the co-operation of the States surrounding them for the formulation and implementation of the principle of free access to the sea. Their desire in meeting together to study a question on which information was so rare and so scattered had merely been to further the development and the progressive codification of international law, as laid down in the United Nations Charter.

20. Going on to show that the seven principles recommended by the Preliminary Conference were derived from customary international law and existing multilateral agreements, he cited the 1919 peace treaties, the Barcelona Declaration, the Havana Charter, the General Agreement on Tariffs and Trade and the resolutions adopted by the Economic Conference of the Organization of American States held at Buenos Aires in 1957.

21. With regard to principle V concerning the right of free transit, which was of vital importance to land-locked countries as a condition of their economic survival, and which involved many technical difficulties, the Nepalese delegation thought it desirable that the study of regulations for the carriage of passengers and goods to and from the ports of a coastal State and related questions be entrusted to the Economic and Social Council or to some other competent international body. He thought that the draft regulations prepared might serve as a model for bilateral agreements.

22. The Nepalese delegation also considered that the non-application of the most-favoured-nation clause, referred to in the preamble to the principles enunciated by the Preliminary Conference, might be mentioned among the principles themselves in the interests of the land-locked countries and the coastal States. The Nepalese delegation took the view that the question of free zones and free ports should also be included among the principles.

23. Finally, it would like a suitable procedure to be laid down, in whatever document might contain the principles, for the settlement of disputes concerning the interpretation and the application of the right of access of land-locked countries to the sea. General provisions could be included relating to conciliation, arbitration and recognition of the competence of the International Court of Justice, a special tribunal or a mixed commission. The Nepalese delegation would submit a proposal to that effect, if necessary.

24. As for the form it would like the principles to take, the delegation of Nepal thought they might be embodied in articles on the access of land-locked countries to the sea, to be included in an instrument of broader scope — preferably a convention on the régime of the high seas, as that would ensure the acceptance and ratification of the articles by the greatest possible number of States. Should that solution prove impossible, the principles could be embodied in a separate declaration opened for signature and ratification in the same way as any other instruments the Conference might adopt. As the subject was a technical one, it would perhaps be desirable to request the Economic and Social Council or some other competent international agency to draft detailed regulations concerning the procedures and methods required to give practical effect to the right of transit. Such a draft could provide a model for future bilateral treaties.

25. In conclusion, he stressed that the question of the free access of land-locked countries to the sea merited the special attention of all coastal States and, in particular, that of the great powers and of coastal States adjacent to land-locked countries, which, by co-operating in the effort to solve a problem so vital to the land-locked countries, would have an opportunity of fulfilling the solemn undertaking they had given under Articles 55 and 56 of the United Nations Charter. He hoped that after a wide exchange of views the Committee would be able to recommend the Conference to adopt concrete proposals that would mark an advance in international law.

26. Mr. PECHOTA (Czechoslovakia), after recalling the terms of resolution 1105 (XI) of the United Nations General Assembly, said that it had been the will of the General Assembly, in adopting that resolution, that the rights of the land-locked countries should be given a place in the new codification of the law of the sea. It was the Committee's duty to see that the rights of those countries were recognized on the basis of legal principles, backed by economic, political and moral considerations, to the exclusion of any idea of bargaining in regard to the concessions which coastal States should make to the land-locked countries. In view of the importance of the right of access to the sea for the development of economic co-operation and international trade, it was necessary to confirm the fact that the differences between the position of coastal States and that of land-locked States were continually decreasing; that could be done by proclaiming the principle of the freedom of access of land-locked countries to the sea.

27. In the opinion of his delegation, there could be no doubt as to the the existence of a fundamental right of land-locked countries to access to the sea. In addition to economic and political factors, that right was based essentially on two principles of international law: the principle of the freedom of the high seas and that of the equal sovereign rights and political and economic independence of members of the international community. The draft prepared by the International Law Commission (A/3159, chap. II) already confirmed certain rights common to coastal States and land-locked States. It was necessary to go further, however, and to make no distinction between coastal States and land-locked States in regard to their right to use the sea ; otherwise the principle of the equal sovereign rights of States would be seriously impaired and their economic and political independence dangerously threatened. A land-locked State could not fully enjoy its right to use the high seas unless it could exercise the right of free transit to the coast, the right to use maritime ports and the right of innocent passage through territorial and internal waters. Any restriction in those respects would make the freedom of the high seas illusory. The principle of free transit had been recognized in several international

instruments, in the Covenant of the League of Nations (Article 23, paragraph (*e*)), and in many bilateral and multilateral treaties. Free transit of land-locked States to the sea was not a matter of a servitude but of an inalienable and fundamental right based on international law, and having its origin in the geographical situation of certain countries. It was for that reason that many treaties and international agreements contained provisions on the right of innocent passage of land-locked States and the right of those States to use maritime ports.

28. In addition to general international instruments, many bilateral agreements had recognized the right of land-locked countries to access to the sea. Such agreements would certainly play an important part in the future, as they brought economic advantages both to coastal and to land-locked States.

29. In the desire to contribute to the great task of codifying the law of the sea which was the object of the present conference, the Czechoslovak Government had been one of those which had urged that the law on the free access to the sea by land-locked States should be codified. In particular, it had taken an active part in the Preliminary Conference of Land-locked States, held at Geneva from 10 to 14 February 1958, and the Czechoslovak delegation fully agreed with the conclusions reached there. On that occasion, the Czechoslovak delegation had submitted detailed draft regulations (A/CONF.13/C.5/L.1, annex 6) in which were set out the following fundamental principles which should be embodied in the law governing free access to the sea by land-locked States. Those principles were:

(*a*) The international law now in force recognizes the right of land-locked States to access to the sea; that right derives from the fundamental principle of freedom of the high seas.

(*b*) Each land-locked State enjoys, on a footing of completely equal treatment with coastal States, the right to fly a flag.

(*c*) The vessels flying the flag of a land-locked State enjoy, in the territorial and internal waters of a given coastal State, the same rights as ships flying the flag of other coastal States.

(*d*) Each land-locked State has the right of access to the ports of the coastal State and is entitled to the most favourable treatment as regards the use of port facilities ; under no circumstances must it receive treatment less favourable than that accorded to the vessels of the coastal State as regards access to the latter's maritime ports.

(*e*) Each land-locked State has the right of transit through the territory of the countries between it and the sea and the right to use all means of transport and communications for that purpose under favourable conditions which shall form the subject of an agreement between those States.

(*f*) In view of the peculiar situation of the land-locked States, the conditions of transit between such States and countries of transit are excluded from the application of the most-favoured-nation clause, and the State permitting such transit is not bound to accord the same rights to third States.

(*g*) States of transit or coastal States retain full sovereignty over their territory and over their means of transport and communication ; they also retain the right to take measures to ensure that exercise of the right of free access to the sea does not infringe their legitimate interests of any kind.

The meeting rose at 5.10 p.m.

FIFTH MEETING

Wednesday, 12 March 1958, at 3 p.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Study of the question of free access to the sea of land-locked countries *(continued)*

General debate (continued)

STATEMENTS BY MR. USTOR (HUNGARY), MR. SISOUK NA CHAMPASSAK (LAOS), MR. GERONIN (BYELORUSSIAN SOVIET SOCIALIST REPUBLIC) MR. MÜLLER (SWITZERLAND) AND MR. KUSUMAATMADJA (INDONESIA)

1. Mr. USTOR (Hungary) said he was confident that the Committee's work would be successful. As the secretariat had pointed out in its memorandum (A/CONF.13/11, p. 5), the results of the work on the question of free access of land-locked countries to the sea might well be embodied in the Convention or in one of the instruments which the Conference might see fit to prepare. Such was certainly the opinion of all the representatives at the Conference, since the proposal made by Afghanistan, made at the first plenary session, to give the Fifth Committee the status of a main committee, rather than a special committee of the Conference, had been unanimously adopted.

2. Although the Fifth Committee had not, like the others, the benefit of the preparatory work of the International Law Commission, it had, at least, an excellent study (A/CONF.13/29) by the Secretariat of the United Nations. The drafts prepared by the delegations of Afghanistan and Czechoslovakia (A/CONF.13/C.5/L.1, annexes 4 and 6) would also lighten the Committee's task. He thanked the Swiss Government for having invited the representatives of the land-locked countries to a preliminary meeting at Geneva in February. All that work was an excellent preparation, enabling the Committee to take up its task with confidence.

3. As far as his own country's position was concerned, Hungary, though having no sea coast, had always been interested in shipping and had contributed to its economic and scientific development. Hungary's right to a flag had been recognized by the Treaty of Trianon. The Danube was, for Hungary, a great highway to the sea, and the Danubian fleet had been quite large between the two wars. It had been almost entirely destroyed during the Second World War.

4. Hungary had concluded a number of multilateral conventions relating to the law of the sea and was very keenly interested in the question of free access to the sea of land-locked countries, especially as Danubian shipping was of limited capacity and the river was impracticable for a large part of the year.

5. As early as 1920, the Allied and Associated Powers

had recognized the importance of free access to the sea for Hungary, while the coastal States concerned had granted it the right of free access to the Adriatic in article 294 of the Treaty of Trianon.

6. Hungary regarded codification of the rights of the land-locked countries as a matter of principle, for at the moment its communications with the sea raised no practical problems. The question was satisfactorily settled by the Conventions of Barcelona (1921) and Geneva (1923) and other bilateral agreements. But that did not mean that nothing further should be done and it was important, in an attempt at general codification, to reaffirm the rights of the land-locked countries. The Hungarian delegation, which had taken part in formulating the seven principles of the Preliminary Conference, did not think that those principles should be embodied in a convention as they stood, but considered that they should serve as a basis for the Committee's deliberations.

7. He then recapitulated the main principles underlying the rights of land-locked countries. The rights of those countries to a flag having been recognized by the Barcelona Declaration, no one would oppose the confirmation of that right in a code of the law of the sea ; hence the Committee need not revert to that question.

8. He wished to make a few remarks on the subject of freedom of access to the sea. The Czechoslovak delegation had rightly pointed out in its memorandum (A/CONF.13/C.5/L.1, Annex 6, article 1) that the principle of freedom of the high seas implied the right of any State without a sea coast to free access to the high seas. For in order to enjoy freedom of the sea, such a country must clearly have free access to it. That problem had already been raised and settled by the Romans, and the Emperor Justinian had stated in his *Digesta* that " the use of shores under *jus gentium* is just as public as the use of the sea itself ". Though Roman law could not, of course, be invoked at the present day, its principles could always serve as a guide.

9. The right of transit differed from the right of innocent passage through territorial waters, for the latter could be exercised without any special convention. Passage across the territory of another country required a bilateral agreement, but a State must not be able to refuse outright to negotiate such an agreement without thereby incurring international responsibility.

10. The coastal State naturally retained its full right to regulate the conditions of access to the sea. Moreover, it had every interest in developing its trade and the activity of its ports.

11. In any case, the question was not really controversial, for, as the secretariat had pointed out in its memorandum (A/CONF.13/29), the right of land-locked States to free access to the sea was among the generally accepted rules of international law.

12. Mr. SISOUK NA CHAMPASSAK (Laos) said that owing to its relief and waterways his country, which was enclosed by Viet-Nam, China, Burma, Thailand and Cambodia, was a thoroughfare between the Indian and Chinese worlds, though at first sight it might seem difficult of access. For centuries the main means of access to Laos had been the Mekong. Later, two other routes had been added, via Thailand and via Cambodia ; a seaport would shortly be open to traffic in the latter country.

13. The lack of a coastline had tended to retard the economic and social development of Laos. The country had three roads for carrying its exports and imports. The first connected Laos with Saigon through Cambodia, the second went from Savannakhet to the port of Tourane and the third — the most recent — connected the port of Bangkok to Nongkhay, the terminus of the Thailand railway 60 km from Vientiane, the capital of Laos. For two years, over 64% of the imports of Laos had been brought in by the third road. Despite the improvements made to the road system, however, it was still difficult to keep Laos supplied with goods, in particular because of various legal obstacles. The delegation of Laos hoped the Conference would be able to adopt a convention which would remove those obstacles, thus establishing the economic independence of the country.

14. His delegation would like to comment on the principles enunciated by the Preliminary Conference. It considered that a State's right to use all the routes giving it access to the sea formed an integral part of the right of free access to the sea. The principle that a country should be entitled to make use of every available means of access should be formally established. The exercise of the right of free access to the sea should enable Laos to use, for example, the three or four routes he had just mentioned. It would, in his opinion, be desirable for the Conference to proclaim the right of a land-locked State to have access to the sea by all routes in existence or capable of use.

15. As to principle IV, on the régime to be applied in ports, his delegation thought that the Conference should proclaim the principle that land-locked States were entitled to most-favoured-nation treatment, and should stipulate that any disputes which might arise between a land-locked State and neighbouring States concerning the régime applicable in ports should be settled by judical means, if the States concerned failed to reach agreement.

16. In the opinion of his delegation, principle V, dealing with the right of free transit, should apply to the future as well as the present requirements of land-locked States. It should also apply to the transit of all products necessary for everyday life in the land-locked State. All the transit facilities should be provided for in conventions, which would, of course, contain provisions to safeguard the legitimate interests of the State of transit, and they should also make provision for judicial procedure for the settlement of disputes.

17. In conclusion, he was glad to point out that Thailand had given his country transit facilities and certain customs facilities, while Viet-Nam and Cambodia had been most sympathetic concerning the problems with which Laos was faced.

18. Mr. GERONIN (Byelorussian Soviet Socialist Republic) said that since a sixth of all States were land-locked, the question referred to the Fifth Committee by the Conference was of great importance. It was connected with the maintenance of good-neighbourly relations between all countries and the development of international co-operation and of commercial relations advantageous to all.

19. Although, as was common knowledge, the Byelorussian SSR had no sea coast, it had no difficulty in obtaining access to the sea. Being voluntarily united with the other Soviet Republics in the Union of Soviet Socialist Republics, it enjoyed, as did the other land-locked republics of the USSR, free access to all the sea coasts of the Soviet Union. A solution on the international level to the question of the access to the sea of land-locked countries would help to create those conditions of stability and well-being which were necessary for peaceful and friendly relations among nations in accordance with the terms of Article 55 of the United Nations Charter. It was in that spirit that the Byelorussian SSR had taken part in the work of the Preliminary Conference of Land-locked States held at Geneva from 10 to 14 February 1958.

20. At that conference, the exchanges of views which had taken place between the land-locked countries had shown that they were keenly desirous of having free access to the high seas, so as to be able to maintain close trade relations with other countries.

21. The draft articles prepared by the International Law Commission on the Law of the Sea were based on the principle of freedom of the high seas. A corollary to that principle was the principle of free access to the sea, which was not embodied in any article of the draft. On the other hand, the draft did contain articles — those relating to navigation — which also applied to the land-locked countries — in particular, articles 28, 29 and 30.

22. It should also be emphasized that many of the principles relating to free access of land-locked countries to the sea had been recognized in international law, in particular, by the Declaration of Barcelona of 1921 on the right of land-locked countries to fly a flag. Reference could be made to other multilateral conventions and to bilateral agreements dealing with transit.

23. In the opinion of his delegation, the time was ripe for codifying the rules of free access to the sea by land-locked countries. The principles enunciated by the Preliminary Conference could be taken as a basis for that work. The draft articles submitted by the delegation of Czechoslovakia to the Preliminary Conference were also of the greatest importance.

24. In conclusion, he stated his conviction that a detailed study of the matter would enable the Fifth Committee to put forward proposals acceptable to all States.

25. Mr. SCHALLER (Switzerland) after pointing out that Switzerland, although it enjoyed an international régime affording it access to the sea, had the problems of other land-locked States very much at heart, as it had proved by welcoming the Preliminary Conference to its territory, requested the Chairman's permission for Mr. MÜLLER, a specialist in the law of the sea, to put the Swiss point of view.

26. Mr. MÜLLER (Switzerland) said that the aim of the countries which had participated in the Preliminary Conference had been to facilitate the proceedings of the Conference on the Law of the Sea, and they had accordingly enunciated seven principles which were already part of existing international law. It would be wrong to believe that the conclusions of the Preliminary Conference were binding on the participating States, or that the texts they had adopted constituted a collective claim.

27. He would not repeat the arguments put by the representatives of Afghanistan, Czechoslovakia, Hungary, Laos and Nepal in favour of recognizing the right of land-locked countries to access to the sea, but would merely put the viewpoint of Switzerland, which, although land-locked, was a maritime State with a merchant navy amounting at present to 150,000 tons. In regard to the law of the sea, Switzerland distinguished two main principles: the principle of freedom of the seas and the principle of freedom of communications.

28. As to the first, Switzerland had no particular claims to make; for the Barcelona Declaration of 20 April 1921, which had been ratified by 33 States, including the coastal States adjacent to Switzerland, had recognized Switzerland's right to a flag ; and that right was now confirmed by international custom. Moreover, the provisions of articles 15 and 27 of the draft prepared by the International Law Commission, which dealt, respectively, with the right of innocent passage of ships of all nationalities through a State's territorial waters and with freedom of the high seas for all nations, would afford Switzerland a sure safeguard for its rights. Hence, the Swiss delegation considered that principles I, II and III enunciated by the Preliminary Conference were recognized in international law and therefore raised no problem.

29. As to the régime applicable in ports, twenty-one States, including all the coastal States adjacent to Switzerland, had ratified the 1923 Convention on the International Régime of Maritime Ports, so that Swiss vessels had free access to ports in those countries. In the ports of countries which had not ratified the Convention, they enjoyed most-favoured-nation treatment. Accordingly, Switzerland wondered whether it was really worth while adopting another international instrument, which might not be ratified by so many States and might therefore be interpreted as according less rights to the land-locked States, and whether it was not preferable to seek to increase the number of ratifications. At all events, Switzerland was not in favour of adopting a detailed instrument, on the ground that procedure for applying the principles should be laid down in special agreements. Switzerland merely requested confirmation of equality of treatment and did not seek recognition of advantages which, in its view, were a matter for separate customs and fiscal agreements.

30. So far as freedom of communications was concerned, the Swiss delegation did not regard it as a right deriving from the freedom of the seas, but it nevertheless recognized the importance of the right of transit for land-locked States. Freedom of communications had been recognized in the Convention of 20 April 1921 on freedom of transit, which had been ratified by all the coastal States adjacent to Switzerland. It had also been recognized in the Convention of 1923 on the international régime of railways, which had likewise been ratified by the coastal States adjacent to Switzerland. The Swiss delegation took the view that the right of transit should be reciprocal, and it saw no need to institute a special right of transit for the sole benefit of land-locked States. Switzerland considered that what should be sought was confirmation of that right and an increase in the number of ratifications of the Barcelona

Convention of 1921 on the subject ; for the adoption of a new convention might well result in a considerable curtailment of the right as at present accorded to land-locked States, especially if the aim was uniformity and no account was taken of the special situation of each country.

31. The Swiss delegation wished to pay a tribute to the coastal States adjacent to Switzerland for all the transit facilities they had accorded, which might be said to have brought Switzerland as near the sea as the maritime States. It also wished to state that its co-operation with other land-locked countries in no way implied a renunciation of the rights accorded it in regard to free access to the sea, and in particular to freedom of navigation on the Rhine. In the latter case, Switzerland enjoyed a freedom deriving from a series of international instruments beginning with the Peace Treaty of 30 May 1814, which went beyond freedom of transit, and would become even wider when the works on the Upper Rhine were completed as far as Lake Constance. The International Statute of the Rhine guaranteed not only freedom of navigation, but also complete equality of treatment, freedom of chartering, exemption from taxes and tolls, and the prohibition of restrictions on the coasting trade, and contained no escape clause.

32. He pointed out that, where access to the sea was concerned, each land-locked State was in a special position for which there were historical, political, economic, geographical and technical reasons. It followed that a detailed and uniform convention could not entirely satisfy all land-locked States and all coastal States. That fact had been recognized in the final Act of the Congress of Vienna of 9 June 1815, and it had been wisely decided merely to include the fundamental principles and generally recognized freedoms, while States bordering on the Rhine undertook to settle questions concerning navigation on that river by mutual agreement, in accordance with those principles and freedoms. Instruments relating to navigation on the Rhine, the Danube, the Elbe, the Oder and other waterways, took into account the special features of each region. It would be advisable to follow those precedents and to do no more than codify the general principle of free access to the sea of land-locked countries, while urging adjacent coastal States to agree on procedure for implementing the freedoms recognized in any convention adopted by the Conference on the Law of the Sea. If the Conference was to be successful, it should not undertake too much.

33. Mr. KUSUMAATMADJA (Indonesia) said that Indonesia, a country which had sometimes been described as " an enclave in the sea ", might not appear to be directly concerned with the problems of land-locked countries. Nevertheless, his delegation felt that the problems referred to the various committees of the Conference formed an indissoluble whole and that recognition of the right of free access to the sea of land-locked countries would mark a stage in the history of international law.

34. He did not agree with the view expressed in the First Committee that the question of free acces to the sea should be excluded from the general legal principles, and should only be the subject of special agreements between the States concerned. He was, however, prepared to consider that opinion as a call for caution in stating the general principles.

35. The failure of The Hague Conference of 1930 for the Codification of International Law was partly to be explained by the fact that the principles considered to be recognized at that time were based on premises which were not universally accepted. That conference had had the unfortunate result of confirming the disagreements between the States on the questions discussed.

36. With regard to free access to the sea, however, the Indonesian delegation thought that there was general agreement associated with economic interests which were much more important than any differences arising in practice. There was therefore every reason to believe that the work of the Committee would be successful, thus contributing considerably to the success of the Conference as a whole. An international convention on the Law of the Sea would certainly be incomplete if it did not reaffirm the general principles governing the rights of countries without a sea coast.

The meeting rose at 4.35 p.m.

SIXTH MEETING

Friday, 14 March 1958, at 10.30 a.m.

Chairman: Mr. Jaroslav ZOUREK (Czechoslovakia)

Study of the question of free access to the sea of land-locked countries *(continued)*

General debate (continued)

STATEMENTS BY MR. JOHNSON (UNITED KINGDOM), MR. THIERRY (FRANCE) AND FATHER DE RIEDMATTEN (HOLY SEE)

1. Mr. JOHNSON (United Kingdom) said that his country had a very great interest in the work of the Committee, and hoped that it would be successful.

2. The subject with which the Committee was dealing had not been so well prepared as the other matters confronting the Conference. But at the very outset, the United Kingdom had been quick to realize the importance of the subject, and had been glad that the special problems of the land-locked countries were being studied at the Conference at the level of a main committee.

3. When, in its resolution 1105 (XI), the General Assembly had decided that the Conference should " examine " the law of the sea and recommended that it should " study " the question of the free access to the sea of land-locked countries, the Assembly had been recognizing that the question required a great deal of study, which would fall to the Conference to initiate.

4. The lack of preparation had fortunately been made good to some extent by the secretariat memorandum (A/CONF.13/29), the memorandum submitted by the Preliminary Conference (A/CONF.13/C.5/L.1) and the Chairman's introductory statement at the third meeting of the Committee. Many governments had, however, still not had time to study those documents thoroughly. That fact should impose on the Committee