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PROVISIONAL SUMMARY RECORD OF THE THIRTY-THIRD MEETING

Held at the Parque Central, Caracas,
on Thursday, 8 August 1974, at 3.25 p.m.

Chairman:	Mr. AGUILAR	Venezuela
later:	Mr. TUNCEL	Turkey
Rapporteur:	Mr. NANDAN	Fiji

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LAND-LOCKED COUNTRIES (A/CONF.62/C.2/L.29 and L.39) (continued)

Mr. OGUNDERE (Nigeria) said that his delegation, faithful to the principles embodied in the Declaration of the Organization of African Unity (A/CONF.62/33), acknowledged the right of land-locked and other geographically disadvantaged States to access to the exclusive economic zones of neighbouring coastal States. Nigeria had always recognized that right and voluntarily granted to the neighbouring land-locked States of Niger and Chad free transit to and from the sea without hindrance; for example, after the recent crop failures in those areas his Government had expedited transportation of all materials needed by those States. He therefore supported the codification of the right of transit in the new convention. The modalities of the exercise of free transit should be settled by bilateral or regional arrangements or agreements between the transit and land-locked States concerned.

The proposal submitted by land-locked and other geographically disadvantaged States in document A/CONF.62/C.2/L.39 seemed, however, to smack of hegemonistic tendencies. His delegation viewed with disapproval articles 3 and 5 of that draft, providing for the participation of land-locked and other geographically disadvantaged States in the exploitation of the non-living resources of the economic zones of neighbouring coastal States. There was no provision for any reciprocal right of transit States to exploit the mineral resources of land-locked States. The sponsors of the draft included countries, such as Singapore, Sweden and Switzerland, whose per capita standard of living was among the highest in the world. It was certainly not equitable or just that such countries should share in the non-living resources of the economic zones of coastal States. Article 5 of [illegible] to reintroduce the concept of trusteeship zones, which was a corollary of colonialism. While he recognized the right of land-locked and other geographically disadvantaged States to explore and exploit the living resources of the economic zones of neighbouring coastal States and to share in the revenues collected by the international sea-bed authority along with other members of the international community, he could not concede any right to the exploration and exploitation of the non-living resources of economic zones or the sharing of revenues derived from such exploitation. Other draft articles on the same subject, with which his delegation was broadly in agreement, were to be submitted by a group of transit countries.

No condition should be placed on the right of land-locked States to free transit of persons and goods to and from the sea and he sympathized with their desire to have their right of passage to the sea guaranteed, to share in the living resources of the economic

(Mr. Ogundere, Nigeria)

zones of neighbouring coastal States, and also to share in the revenues reverting to the international sea-bed authority. He did not, however, agree that land-locked States should exercise rights in transit States which they did not reciprocate.

Mr. LEGWAILA (Botswana), describing the geopolitical situation of his country, said that it had to contend not only with the harsh realities of geography but also with political and racial tyrannies on its frontiers. For the last seven years Botswana had been trying to establish a democratic society despite that handicap imposed by geography, and now, because it had succeeded, and also because of its proximity to racist régimes, it received large numbers of political refugees. As long as the current political situation prevailed in the neighbouring country, Botswana's right of access to the sea could not be fully guaranteed. Although his Government would continue to protest, it was not prepared to forego that right, which had been acknowledged in international law. His delegation therefore urged the Conference to include in the Convention on the law of the sea the right of free transit and access to and from the sea, which would not be predicated upon agreements with neighbouring States. Guarantees of that right should be provided in the Convention, so that any country, if denied access to the sea, could appeal for redress of its grievance through the international machinery provided for that purpose.

Turning to the question of charges for transit and use of port facilities, he said any charges or levies should be commensurate with the services rendered, and if the land-locked State used its own means of transport, there should be no charge for transit through the territory of the transit State. Accordingly, he proposed that the article dealing with the right of transit should read as follows:

> "The transit State shall accord free and unrestricted transit of persons and goods of land-locked States by any means of transportation. The traffic in transit shall not be subject to any customs duty or specific charges or taxes except for charges levied for specific services rendered. Means of transport of the land-locked State while in transit should not be subject to special taxes or charges higher than those levied for the use of means of transport of the transit State."

That draft article reflected article 6 of the Kampala Declaration. Although some representatives might consider it impractical and unreasonable, he pointed out that its provisions assumed that administrative arrangements regulating transit would be made. They were intended to ensure that the right of transit was fully entrenched in order to protect the land-locked State against any unreasonable coastal State, such as Botswana's neighbour.

(Mr. Legwaila, Botswana)

Turning to the question of resources, he said he proceeded from the premise that the seas belonged to all mankind. Sharing meant sharing the resources of the sea, not the resources of coastal States. It was not enough to say that land-locked and other geographically disadvantaged States should share only in the living resources of the sea. Indeed, some coastal States were not even willing to share living resources on an equal and non-discriminatory basis, but wished to impose unjust conditions. The Declaration of the Organization of African Unity called on African coastal States to share living resources with their land-locked neighbouring States and he hoped that they would fulfil that obligation.

The aim of the Conference was to draft new articles governing the uses of the sea, not to help coastal States balkanize the seas for their own benefit. Any convention which discriminated against geographically disadvantaged States would create discord and conflict because land-locked States would struggle to ensure that their rights were fully recognized. In conclusion, he recommended to the Conference for adoption the two drafts submitted by land-locked and other geographically disadvantaged States and contained in documents A/CONF.62/C.2/L.29 and L.39.

Mr. TREDINNICK (Bolivia) said that the Conference was unprecedented in the history of the law of the sea in that many of the countries represented had not participated in the earlier 1958 and 1960 Geneva Conferences on the Law of the Sea. The success of the Conference would depend on the spirit of justice and solidarity of the participants. The future Convention should certainly include provisions establishing the right of land-locked countries to free and unrestricted access and transit to and from the sea, which was already recognized under international law, as well as the rights set forth in the Kampala Declaration (A/CONF.62/23). The right of free and unrestricted transit to and from the sea should not simply be a form of international courtesy or a concession arbitrarily granted by the coastal State, but must be guaranteed in international law; that was important, because under present conditions a considerable part of the resources of land-locked countries was spent to pay for transit rights to the sea. He did not believe that the right of free transit to and from the sea would affect or jeopardize the sovereignty of transit or coastal States.

Land-locked countries might well be classified as dependent countries with limited sovereignty; for example, Bolivia's extensive coastline on the Pacific Ocean had been

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(Mr. Tredinnick, Bolivia)

taken from it by Chile in the 1879 war; as a result, Bolivia had become internationally dependent and increasingly backward socially and economically. His Government had naturally sought to ensure, through direct negotiation, that Bolivia would once again, as in the days of the Incas, have its own outlet to the Pacific Ocean in exchange for fair compensation. The question of an outlet to the sea for land-locked countries affected not only the region or subregion in which they were situated but the whole international community. Each country was responsible not only for its own progress or lack of progress but also for that of neighbouring countries. He suggested that free and unrestricted access to and from the sea could be provided in the case of Bolivia through a corridor to the Pacific Ocean, which could be negotiated under the auspices of the Conference as an edifying example of international solidarity. The world was changing and the necessary readjustments should be made in the new Convention on the law of the sea.

The situation of land-locked countries was much more serious than could ever be imagined by coastal States. One seminar had concluded, after studying the problem, that land-locked countries such as Bolivia could well become the most backward countries of each region simply because foreign investment would tend to flow into coastal States which had their own ports. An UNCTAD report had noted that the lack of a coastline added to the problems of development by increasing the cost of raw materials and international trade through the levying of various kinds of charges. For example, a unilateral increase in taxes and charges for use of port facilities in Chile and for transport through Chile had just been imposed on Bolivia. That action illustrated that a land-locked country had little or no say in decisions affecting its vital interests, such as the establishment of a railway line, measures to reduce congestion in ports, or freight charges. Inequitable international treaties also seriously affected least developed countries like Bolivia, which was just over 130 kilometres from the Pacific Ocean. Bolivia would never renounce its struggle for the implementation of its legitimate right to have its own outlet to the Pacific Ocean, as had been recognized by the Presidents of Venezuela and Mexico, by the Chamber of Deputies of Venezuela and by various other countries.

Mr. GODOY FIGUEREDO (Paraguay) said that the proposed articles (A/CONF.62/C.2/L.29 and L.39) submitted by land-locked and other disadvantaged States contained carefully drafted provisions reflecting the just and realistic interests of

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(Mr. Godoy Figueredo, Paraguay)

such States. They also reflected the principles and norms of international law applicable to such States, as contained in the Kampala Declaration. Draft articles reflecting the positions and needs of land-locked and other geographically disadvantaged States with respect to the international sea-bed area would be submitted in the First and Third Committees.

Paraguay was a land-locked developing country making every effort, at every level, to overcome the disadvantages of its geographical situation. The recent crisis and increase in the price of oil and oil products had created serious problems for developing countries, which depended largely on imports for development and social progress. Paraguay was fortunate to have major international waterways, which were, however, navigable only part of the year; a navigation agreement had been concluded in 1967 with Argentina providing for freedom of navigation for Paraguayan ships and Argentine ships on those waterways on a reciprocal basis. Implementation of that agreement had been guaranteed by both parties in national decrees. Paraguay also enjoyed facilities in Brazilian and Chilean ports for transit trade. It thus had access to the sea through its international waterways part of the year and through the territory of Brazil throughout the year. Those arrangements reflected the wise policies of the Paraguayan, Argentine and Brazilian Governments, which were well aware that access to the sea was essential if Paraguay was to satisfy its economic requirements.

The ideal of justice and equity would not be fully attained until the right of land-locked States to access to the sea, res communis, was recognized as being on an equal footing with that of other States whose geographical situation enabled them to claim jurisdiction over large expanses of ocean space. The coastal States were certainly not acting illegally in claiming jurisdiction over such areas in order to protect the interests of present and future generations, but he wished to point out that those parts of the ocean and their resources also belonged to land-locked countries in that the waters of the rivers of land-locked countries flowed into the sea. He therefore appealed to all delegations to be fully aware of the historic realities of the situation and to appreciate the problems faced by land-locked countries so that the conclusions and decisions of the Conference on the new law of the sea would contribute to the establishment of a new, more just and more humane world order.

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Mr. MOLAPO (Lesotho) said that the Conference had to perfect and extend the efforts of the past, especially with regard to those rights recognized by the Barcelona Convention of 1921 and the 1958 Geneva Convention on the High Seas, and to ensure that they became an integral part of the new Conventions on the law of the sea.

Lesotho's geographical position was almost unique in that it was totally land-locked by a single other State. While both the Vatican City State and the Republic of San Marino were completely surrounded by Italy, they shared culture, language and tradition with that country. Lesotho, however, was surrounded by a neighbour whose domestic and foreign policies were at variance with its own, and its geographical isolation was cause for serious concern.

For lack of any alternative, Lesotho had to use South African ports for access to the sea. Although Lesotho was connected by rail to the South African ports, it had had to rely heavily on air transport due to its difficult topography.

Lesotho's present transit rights were based primarily on customary international law and the principle of necessity. The principles laid down in 1960 by the International Court of Justice in the Right of Passage over Indian Territory Case were to some extent clouded by the particular history of the Portuguese enclaves in India and the dealings between the Portuguese and British Governments over many years. Even though in any dispute involving Lesotho, an international tribunal, basing itself on customary law, would find in favour of freedom of transit, Lesotho would prefer to see the right of transit clearly recognized in a multilateral binding convention. The cautious pactum de contrahendo approach of article 3 of the 1958 Geneva Convention on the High Seas did not sufficiently create that right, nor were the conditions which a transit State might impose on the exercise of the rights of transit satisfactorily limited. The provisions of that Convention worked to the disadvantage of Lesotho which, being totally surrounded, had only one State with which it could negotiate. The same was true for other States with only one transit State linking them to their natural or reasonably practicable outlet to the sea. In such circumstances, where the transit State was in a position to dictate terms, the position of a country like Lesotho was far worse than that of a land-locked State with more than one adjacent transit State with which it could bargain.

His delegation agreed in general with the draft articles relating to land-locked States submitted to the Sea-Bed Committee in 1973 (A/AC.138/93). It especially welcomed the confirmation in the preamble of those draft articles that the right of free access was an integral part of the established principles of international law and that the

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(Mr. Molapo, Lesotho)

light of land-locked countries to free access to and from the sea derived from the application of the fundamental principles of freedom of the high seas and had further been strengthened by the principle of the area of the sea-bed as the common heritage of mankind. In the light of his country's experience, two aspects of that draft needed to be strengthened, and his delegation was preparing amendments to that effect. First, there was a need to include air transport in the definition of "means of transport" in article 1 since air transport was an important means of carriage of goods and persons to and from the sea. Existing provisions of international law did not adequately guarantee that right. In view of the fact that all States whether land-locked or coastal were to enjoy the right of overflight over the high seas and the proposed new economic zones, there was nothing strange in the idea that the right of overflight should also be guaranteed for purposes of transit and access to and from the sea. Secondly, the broad reference to "the legitimate interests" of transit States in article 15 was a matter for concern. Comparable provisions already existed in the Barcelona Convention of 1921 and the 1965 Convention on Transit Trade of Land-Locked States. There was no doubt that the legitimate interests of transit States should not be prejudiced by the exercise of transit or access rights, but those interests should be more exactly identified and defined. Most importantly, the transit State should not be able unilaterally to define its "legitimate interests" and thereby deny or impede transit or access to land-locked States. There should be specific provisions requiring consultations between the parties and compulsory arbitration as envisaged in article 22. Arrangements for the passage of persons who were politically or otherwise unwelcome in the transit State should be devised and respected if recourse to the security clause was not to be made an instrument of harassment.

The interests of land-locked countries like Lesotho with regard to transit and access to the sea were not confined to the traditional uses of the sea. Since the first two Conferences on the Law of the Sea in 1958 and 1960, conditions had changed and new vistas had been opened up. There was a new awareness of the interdependence of all States in a world of limited resources. Consequently the law of the sea needed to be radically reassessed. It was for those reasons inter alia that Lesotho had joined with a number of other States in sponsoring document A/CONF.62/C.2/L.39.

Mr. JAGOTA (India) said that his Government had accommodated and would continue to accommodate the legitimate interests of neighbouring land-locked States.

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(Mr. Jagota, India)

The condition of being land-locked was a basic geographical disability. Most of the land-locked States were also developing States and access to the sea was a necessity for their trade and communication with the rest of the world. The essential elements of transit had more or less been crystallized by State practice and international conventions. India had recognized the importance of transit as the lifeline of land-locked States and had, through bilateral agreements and in international forums respected and protected their interests in that matter. However, the legitimate interests of the coastal or transit State should also be borne in mind. Such interests might relate to the determination of routes and the protection of the security interests of the transit State. Accordingly, the modalities of transit should be settled by bilateral or even regional agreements. The transit State should also be able to expect a favourable response to any request for transit through a land-locked State should the need arise.

In its joint proposal to the Sea-Bed Committee on the exclusive fishery zone (document A/AC.138/SC.II/L.38), his delegation had recognized the reasonable interests of land-locked States in the living resources of the exclusive fishery zone. However, the special rights and interests of the coastal State in the economic zone had to be kept in mind.

The continental shelf, which was the natural prolongation of the land territory of the coastal State, came under a separate régime in international law, and therefore the question of sharing its resources with another State, whether land-locked or not, did not arise. His delegation could not support the extreme position embodied in articles 3 and 6 of document A/CONF.62/C.2/L.39 concerning the sharing of resources of the continental shelf of a coastal State.

Land-locked States had the right to be adequately represented in the decision-making organs of the International Sea-Bed Authority and to derive their due and even preferential share of the benefits which might be obtained from sea-bed exploitation. Those matters pertained to the work of the First Committee and should therefore be discussed intensively in that forum.

Mr. ILLUECA (Panama) said that his country was led to participate in the debate on land-locked countries by considerations of political rather than physical geography, since Panama considered itself a geographically disadvantaged State whose access to the sea was difficult because of a colonial situation which had prevailed since 1903.

(Mr. Illueca, Panama)

The case of his country was entirely exceptional since, despite its approximately 2,000 kilometre-long coast on both the Pacific and the Atlantic Oceans, a convenient access to the sea had been barred by the expansionist policy of a super-Power. The characteristics of the greater portion of the Panamanian coastline were not favourable to the establishment of deep-water harbours, while in those places where it would be most easy to do so, the immediate hinterland was not appropriate for settlement or the exploitation of resources unless efforts beyond the capability of his country were made to develop it. It had been possible, however, to build two ports near Colon and Panama City at either end of the inter-oceanic Canal. Those two ports were indispensable for the exploitation of his country's principal natural asset, namely its geographical position, and to link its territory with the rest of the world. But the temptation to others had been too great, and Panama had fallen prey to colonialist policy in the early 20th century. The exclusion of Panama's sovereignty from the most valuable part of its territory and in particular from its principal natural ports was a direct cause of its underdevelopment.

As the representative of Paraguay had pointed out, the close relationship between underdevelopment and a land-locked position was not accidental. Without any real access to the sea, Panama was in the same situation as Paraguay and Bolivia with which his country felt a strong bond of solidarity.

From the beginning of the 19th century, the Isthmus of Panama seemed destined for greatness as Simón Bolívar himself had foreseen. Nevertheless, that destiny had not come to pass and Panama continued to suffer from underdevelopment, while its most profound aspirations for full independence were frustrated. That situation was the result of a strategy conceived and systematically pursued by the forces of colonialism and neo-colonialism.

Despite thoughts to the contrary, his country was not in a more advantageous economic situation because of the presence of the Canal. The benefits derived by Panama were meagre when compared to those of the super-Power, while Panamanians working in the Canal Zone were the victims of racial and job discrimination.

(Mr. Illueca, Panama)

The new Convention on the law of the sea should include provisions which would preclude the kind of colonial situation which existed in the Isthmus of Panama and put an end to the occupation of ports, canals, islands and ocean-space by foreign Powers and secure free access to the sea and an equitable sharing in its resources for the land-locked and geographically disadvantaged States.

His delegation supported the well-founded aspirations of Bolivia and Paraguay and sought an honourable solution to the problems of the land-locked and geographically disadvantaged States of Latin America and other regions with regard to their patrimonial seas.

In its struggle to gain recognition of its just claims, Panama had received and was grateful for the support of many delegations including those of Venezuela and Mexico.

The question of the Panama Canal had been designated as a matter of common interest for the countries of Latin America at the meetings of Bogota, Tlatelolco and Washington attended by the Foreign Ministers of the Latin American countries. After 10 years of difficult negotiations between Panama and the United States of America on the matter, a new climate fostered by Latin American solidarity and the new orientation of United States policy seemed to offer new prospects for those negotiations. The Tack-Kissinger declaration signed by the two countries in February of 1974 expressed the intention of agreeing to the prompt termination of United States jurisdiction in the Canal Zone or to the limitation of the duration of the treaty by which the United States arrogated to itself the unilateral administration and control of the Canal. Upon the expiration of that treaty control of the Canal would revert to the Republic of Panama. Meanwhile the impatience and dissatisfaction of the Panamanian people continued to grow in the face of the affront to the territorial integrity and political unity of their country which the foreign presence represented.

Despite its unfortunate fate, Panama still believed in law and justice. His delegation hoped therefore that the new Convention on the law of the sea would deal with the kind of situation he had described.

Mr. MANGAL (Afghanistan) said that in his statement to the Plenary, the head of his delegation had dealt in some detail with the special requirements of land-locked States and the provisions which a future Convention should contain with regard to the rights and interests of those States.

The difficulties land-locked States experienced as a result of their geographical position were well known. Land-locked countries had an established right, under international law, to free access to and from the sea. It was generally recognized there was an urgent need to find just solutions in that respect, in the form of legal norms in the future convention.

As a direct result of their disadvantageous geographical situation, land-locked countries experienced difficulties and restrictions in their transit trade. Having no seacoast, their foreign trade was largely dependent on transit facilities in transit States. The ever-increasing costs of transit and transportation led to higher priced imports and exports. Land-locked States must have the right of free and unrestricted transit to and from the sea, without discrimination, by all means of transport and communication including adequate port facilities in transit States, even on a preferential basis, in order to alleviate their situation. His delegation did not agree with the contention that the land-locked States' right of free transit might infringe upon the legitimate interests of transit States, since all States had an obligation to observe certain fundamental rules of international law.

His delegation attached great importance to the participation of land-locked States on an equal basis and without discrimination, in the exploitation of the resources of the sea. The rights and interests of land-locked and other geographically disadvantaged States with respect to the renewable and non-renewable resources of the economic zone should be ensured.

Land-locked States should also participate in the exploitation of the resources in the international area. In order to be economically viable, that area should be extensive and contain sufficient resources to warrant the establishment of an international authority to give effect to the concept of the common heritage of mankind. Land-locked and other geographically disadvantaged States should be adequately and proportionately represented in all organs of the proposed authority and should have equal rights with other States in the process of decision-making.

(Mr. Mangal, Afghanistan)

The support expressed at the present Conference for the position of the land-locked States was a clear indication that the international community was determined to end the injustice done to those States and to include adequate provisions in the future convention to guarantee protection of their rights and interests. He thanked the representatives of Iran and India for the friendly sentiments concerning his country which they had expressed at the previous meeting. His delegation appreciated the prevailing understanding in the Conference with regard to the rights and interests of land-locked States. He hoped that that understanding would result in favourable consideration of the Draft Articles Relating to Land-Locked States submitted by a group of non-coastal States to the Sea-Bed Committee (A/AC.138/93) and the explanatory paper on those draft articles (A/CONF.62/C.2/L.29) which the representative of Nepal had introduced at the previous meeting, as well as the proposals set forth in the Kampala Declaration (A/CONF.62/23) and the draft articles in document A/CONF.62/C.2/L.39.

As there appeared to be no difference of opinion on the item under consideration, there was no need to formulate main trends as in the case of other items. The prevailing understanding of the problems of land-locked States and other geographically disadvantaged States must be translated into treaty articles in the future convention in favour of those States.

Mr. COERNER (German Democratic Republic) said that in the interest of the international community as a whole the future convention should take due consideration of the rights of land-locked and other geographically disadvantaged States in order to ensure its universal application. His delegation regarded the rights of land-locked States to free access to the sea and sea-bed as one of the basic principles of the law of the sea and as an integral part of the principles of international law. If land-locked States were to make full use of the freedom of the seas, it was indispensable that transit States should assume concrete obligations regarding the guarantee of free and unrestricted transit including access to the sea through navigable rivers and other transport routes which passed through their territory and the use of maritime ports and port installations by the ships of land-locked States. General regulations concerning land-locked States in the future convention should also provide for the possibility of bilateral, regional or multilateral agreements

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(Mr. Goerner, [illegible])

between land-locked States with regard to the special interests of the States concerned.

His delegation concurred with the views expressed by many delegations in the course of the discussions that the transit State should have the right to take measures to ensure that exercise of free and unrestricted transit should in no way infringe on its sovereignty and domestic legislation. It also shared the view that the future convention should elaborate and confirm the right of land-locked States to free access to the sea-bed beyond the limits of national jurisdiction for the purpose of exploiting and utilizing the resources therein. His delegation supported the proposals in document A/CONF.62/C.2/L.39 and considered that the draft articles relating to land-locked States submitted to the Sea-Bed Committee (A/AC.138/93) and the explanatory paper on those draft articles (A/CONF.62/C.2/L.29) constituted a constructive basis for discussions on regulations concerning the rights of land-locked States in the future convention on the law of the sea.

Mr. CARPIO CASTILLO (Venezuela) stated his country's position with regard to the provisions which the future convention on the law of the sea should contain on land-locked countries. His country was sympathetic to the aspirations of those countries to have access to the sea within the framework of effective international co-operation, since access to world maritime communications was essential for their survival.

His country was particularly sensitive to the position of Latin American countries whose development was hindered by lack of access to the sea, and in that connexion he would recall the support for land-locked countries which the President of Venezuela had expressed in his statement at the inaugural meeting of the present Conference.

Coastal States should take account of the interests of States which were less favoured and geographically disadvantaged through having no coast, particularly when such countries were under-developed. In some cases it was difficult to define the term "geographically disadvantaged" but in the case of land-locked developing countries the situation was self-evident since land-locked countries which had benefited from other favourable historical and geographical circumstances had achieved considerable economic development.

Conditions varied in the case of individual States and each case required special treatment. It was the view of his delegation that suitable solutions could be achieved on the basis of regional arrangements by adopting the guiding principles of equity and justice which should be incorporated in the future convention.

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(Mr. Carpio Castillo, Venezuela)

His delegation's attitude to proposals concerning the item under consideration would be based on the position he had already outlined.

Mr. ARAIM (Iraq) said that the question of the reformulation of the rules of the international law of the sea was the main task of the present Conference. As a developing country, Iraq realized the interests of developing coastal States in extending their jurisdiction beyond the territorial sea. However, it considered that such an extension should not diminish the rights of land-locked countries and other geographically disadvantaged States to enjoy equal rights in the living resources of zones adjacent to the territorial sea of neighbouring coastal States and to share in benefits derived from the resources of the high seas. Progressive development of the rules of international law should not adversely affect the rights of land-locked and shelf-locked States and those with short coastlines.

The rights of coastal States in the continental shelf adjacent to their coast had been recognized in the 1958 Geneva Convention. However, there was a group of States which could not extend their jurisdiction over the continental shelf to the extent provided for in that convention because their continental shelf was locked in by the continental shelves and territorial seas of neighbouring adjacent or opposite States. Those States had not been able to extend their jurisdiction up to the boundary of the international sea-bed area. In that connexion, he reiterated the views expressed by his delegation in the plenary and in the course of the discussion on the continental shelf with regard to the importance of the delimitation of overlapping continental shelves on the basis of equitable and just principles. In the view of his delegation, proposals to extend national jurisdiction of coastal States beyond the territorial sea would not serve the interests of the world community as a whole if they did not take account of the rights of geographically disadvantaged States which did not have direct access to the international sea-bed area and which were not able to extend their maritime jurisdiction in the same way as other coastal States would be permitted to do under the provisions of the proposed convention. He expressed the hope that the interests of all States would be safeguarded in such a convention.

His country had submitted proposals to the Sea-Bed Committee concerning the inclusion of provisions relating to the interests of geographically disadvantaged States in a future convention. He expressed satisfaction that the concept was gaining support at the present Conference. Those States should have equal rights to the living

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(Mr. Araim, Iraq)

resources of the maritime area of neighbouring coastal States. They should also have free access to the international sea-bed area and other parts of the high seas in order to share in the benefits from the high seas on the same basis as other States. Those rights could not be guaranteed through bilateral or regional arrangements and should be embodied in the proposed convention. However, regional arrangements could play an important role in the implementation of the provisions of the convention.

Mr. KAMIL (Indonesia) reiterated the views expressed by the head of his delegation in his statement in the plenary concerning the interests of land-locked and geographically disadvantaged States. It appeared that a certain consensus was emerging with regard to the need to accommodate the legitimate and reasonable interests of those States.

In the view of his delegation, access to and from the sea was one of those legitimate and reasonable interests. Land-locked countries should have the right to such access and should be given facilities to exercise that right. At the same time it should be clearly understood that that right of access was exercised in the sovereign territory, whether land or water, of neighbouring coastal States. The exercise of that right should not be detrimental to the equally legitimate and reasonable interests of transit States. It was the view of his delegation that bilateral or regional negotiations and agreements were essential for the implementation of that right, which should be embodied in the future convention on the law of the sea. With regard to the desire of land-locked countries to share in the living resources of the sea in the economic zone of coastal States, his delegation considered that it would be possible to accommodate that desire on the basis of bilateral or regional arrangements on the lines of the proposals in the Declaration of the Organization of African Unity (A/CONF.62/L.33).

Land-locked and other geographically disadvantaged countries should participate fully in the management and exploitation of the resources of the sea in the international area which was the common heritage of mankind. His delegation considered that the least developed among land-locked and geographically disadvantaged States should be given special consideration in the sharing of benefits deriving from the exploitation of those resources.

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Mr. HARAS (Pakistan) said that the item under consideration was of direct interest to his country, which considered the problem of land-locked countries in terms of its practical aspects. Land-locked States were geographically disadvantaged and their difficulties should be appreciated and alleviated. However, geographical impediments were not the only reason for the relatively low level of development in some land-locked countries and should not be considered in isolation from other factors which also contributed to the lack of development.

As a developing country, Pakistan appreciated the aspirations of other developing countries and recognized the need for land-locked countries to have free access to and from the sea. It agreed that for that access to be effective, transit States should accord full transit facilities to land-locked States. However, the question arose as to whether land-locked States should be accorded free transit through the territory of the transit State and make use of its transit facilities as an extraterritorial right or whether they should do so by virtue of an agreement with the sovereign transit State. The answer was that because of legal and practical considerations, the claims of land-locked States could not be asserted independently of appropriate agreements with the transit States concerned. Furthermore, the use of ports by land-locked countries should be restricted to principal ports of transit only and to mutually agreed prescribed routes.

Article 3 of the Geneva Convention on the High Seas and the New York Convention on Transit Trade of Land-Locked Countries contained provisions which stipulated that the access and transit of land-locked States should be subject to common agreement between the States concerned and based on the principle of reciprocity. Thus, neither access nor transit by land-locked States were unqualified legal rights but stemmed from agreements between the parties concerned. Since transit by a land-locked State was in effect an encroachment on the sovereignty of the transit State, only the latter could determine the extent to which it was willing to accept such a limitation on its sovereignty. Furthermore, on the basis of the established and recognized principle of reciprocity, transit States might, in consideration of the facilities which they accorded land-locked States, require the latter to accord them similar facilities in furtherance of their economic and trade interests. In practice, arrangements based on mutual agreements had been very satisfactory in meeting the needs of land-locked States as well as the interests of transit States. Such arrangements could be modified from time to time to meet changing circumstances but there was no reason to change the

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(Mr. Haras, Pakistan)

equitable and practical principles governing the access and transit of land-locked States to the sea.

The concept of the exclusive economic zone had raised the question of participation by land-locked States in the resources of the economic zones of neighbouring coastal States. His delegation reiterated that the non-living resources in exclusive economic zones were simply non-negotiable but that, given a spirit of goodwill, ways could be found to accommodate the interests of land-locked States in the living resources of the economic zones of neighbouring coastal States. No State had the right to share in resources which under existing law belonged to a coastal State. However, living resources over which coastal States had not previously exercised sovereign rights might be shared under appropriate arrangements. That position had been repeatedly endorsed by African Heads of States.

Some of the proposals in documents A/CONF.62/C.2/L.29 and A/CONF.62/C.2/L.39 raised doubts concerning the transit State's sovereignty and would negate the very concept of the exclusive economic zone. If developing transit States had to share their scanty resources with others they would become disadvantaged States. Excessive demands could undermine the concept of the exclusive economic zone which was the cornerstone of the new law of the sea being formulated at the present Conference.

In consultation with other countries, his delegation had prepared draft articles on the item under consideration.* Informal consultations and statements made in the Committee had shown that those proposals enjoyed the support of a number of countries. He trusted that the articles would be duly reflected in the summary of main trends being prepared by the Officers of the Committee on the item under consideration.

Additional proposals would be required to cover the question of land-locked States' access to the international sea-bed area. His delegation supported the participation of land-locked countries in the exploration and exploitation of the resources in the area beyond national jurisdiction. Land-locked countries should have adequate representation in the international machinery to be set up to administer the area. Decisions on questions of substance in organs of the authority should take due account of the special needs and problems of land-locked and transit States, which should participate in the process of decision-making with regard to matters affecting their interests.

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* Subsequently issued as document A/CONF.62/C.2/L.48.

(Mr. Haras, Pakistan)

One way of meeting the concern which had been expressed for the plight of the land-locked States would be to set up a world-wide system which would ensure a flow of resources to developing land-locked States from those coastal States which were economically developed and could share resources without harming their economies. Such an arrangement would be preferable to asking developing coastal States to share their urgently needed resources with neighbouring land-locked States, and would be consistent with the International Development Strategy and the Declaration on the Establishment of a New Economic Order adopted at the Sixth Special Session of the United Nations General Assembly in the resolution 3201 (S-VI).

Mr. ARAMBURU MENCHACA (Peru) said that his delegation recognized and strongly supported the land-locked States' traditional right of access to and from the sea; but that right was closely linked with the right of transit through the territory of the neighbouring coastal State, which involved problems of sovereignty and reciprocity. It also recognized the right of land-locked States to participate in the benefits of the sea-bed area and in the machinery to be set up for exploiting it. Both those ideas were embodied in the draft articles submitted jointly to the Sea-Bed Committee by Peru, Ecuador and Panama in document A/AC.138/SC.II/L.27 and Corr.1 and 2. Furthermore, bearing in mind particularly the neighbouring countries Bolivia and Paraguay, Peru had considered the possibility of a preferential régime for nationals of land-locked States in the territorial waters or economic zone of the coastal State.

His delegation would therefore support the inclusion of the following principles in the Convention: the right of free access to and from the sea; the right of freedom of communication in the maritime area of sovereignty and jurisdiction; the right of free transit through the neighbouring coastal State's territory; preferential treatment for the use of installations and services of transit ports; exemption from customs duties, taxes and other transit charges, except for special services; preferential treatment in respect of access of nationals of land-locked States to exploitation of living resources in the areas adjacent to the area of national jurisdiction; full enjoyment of the freedoms of the high seas, including navigation, overflight, laying of cables, fishing and scientific research; the right to equal participation in the benefits derived from the international sea-bed area; and the right to full representation in the organs of the international sea-bed authority.

(Mr. Aramburu Menchaca, Peru)

Some of those principles would need to be regulated by bilateral or regional arrangements between the land-locked countries and their neighbours, not only for reasons of sovereignty but in the light of particular geographical, historical or political circumstances.

He hoped that those principles, many of which his country had already implemented, would be accepted, particularly by the land-locked countries. That would necessitate the renunciation of extreme positions, for example on the question of authority in the waters under the exclusive jurisdiction of the coastal State. It might be useful to consider setting up an informal working group composed of the delegations of developing land-locked and coastal countries, to permit a direct exchange of views and clarification of positions. The situation of the land-locked States should be dealt with not on a regional or international basis but in terms of individual cases, since each one had its own special problems requiring special solutions.

His delegation had been in contact with the delegations of Pakistan and other countries which were preparing some draft articles on the question of land-locked countries. Although it could not sponsor the draft articles, because of differences of view regarding the area of national jurisdiction, his delegation was in general agreement with the ideas embodied in them.

Mr. TURMEN (Turkey) said that he wished to stress three aspects of the problem of the land-locked and other disadvantaged countries. In the first place, their rights must be established and defined. There was a broad consensus to the effect that those States should have the right to share in and benefit from the exploitation of the sea's resources. That right was set forth in section C, paragraph 9, of the Declaration of the Organization of African Unity contained in document A/CONF.62/33. The draft proposals submitted by a number of land-locked and other disadvantaged countries in document A/CONF.62/C.2/L.39 stated, in articles 2 and 3, that the right should cover the non-living as well as the living resources of the economic zone. His delegation had every sympathy with that view but realized that there was a divergence of opinion stemming from the widely held view that non-living resources were non-renewable. He hoped that the Organization of African Unity, which had shown statesmanship and leadership in the preparation of its proposals, would be able to find a solution accommodating the two divergent interests. A more gradual approach to the question of non-living resources might be the best method.

(Mr. Turmen, Turkey)

In any case, the rights of land-locked countries should include access to the sea, provided it did not prejudice the legitimate rights of the transit States, since the coastal States granting such access were at a disadvantage compared with States that did not grant access.

The second aspect was the problem of determining which States should benefit from the right to participate in the exploitation of the resources of other States' economic zones. There was no problem as far as the land-locked countries were concerned, but the question was more subtle and complicated in respect of the other geographically disadvantaged countries. In its statement on the economic zone his delegation had stressed the importance of an accurate definition of the disadvantaged State and had pointed out that the International Conference on Marine Pollution had identified five semi-enclosed sea areas as special areas for the purposes of pollution. Since those areas related solely to semi-enclosed seas, where the coastal States could not have 200-mile economic zones, they could be taken as a starting-point in identifying geographically disadvantaged States. It was essential for the Conference to determine the disadvantaged States: friction was bound to arise if the problems were left to be solved on a regional basis. The criteria should be primarily geographical. In that respect he supported the views of the representatives of Austria and Sweden.

The third aspect concerned the areas in which the land-locked and other disadvantaged States would participate in the exploration and exploitation of the resources of the economic zones, in exercise of their rights under the new Convention. A strictly regional approach would not produce a satisfactory global solution, since there were whole regions which were disadvantaged. In such cases the individual States of disadvantaged regions should be given the right to participate in the exploitation of the resources within the economic zones to be established in the seas adjacent to such regions.

The three aspects he had referred to were closely related and should be dealt with together. In that respect, he reluctantly disagreed with the approach adopted in document A/CONF.62/C.2/L.39, although not disagreeing with its provisions as a whole.

The rights of land-locked and other geographically disadvantaged countries were an integral part of the Convention and should not be overlooked. The success of the Conference would depend to a great extent on striking a balance between the interests of the geographically disadvantaged States, including the land-locked States, and the interests of the coastal States, including the major maritime Powers.

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Mr. ZEGERS (Chile) regretted that the representative of Bolivia had considered it appropriate once again to refer to a matter unconnected with the agenda and to events which had occurred over 100 years earlier and had been overtaken by the course of history.

Chile and Bolivia were united by bonds of all kinds, such as the Andean Pact. Chile, as a country of transit for Bolivia, granted the latter access to its ports for the shipping of goods, on the basis of equality with Chilean nationals; the terms of that arrangement were probably the most generous in the whole world, as could be seen from the relevant United Nations treaties. Under a treaty of 1937, Chile recognized and guaranteed complete freedom of transit through its territory and its major ports for persons and goods in transit to or from Bolivia.

The representative of Bolivia had unfortunately made inaccurate references to a war which had occurred a century earlier and which had been superseded by a firm friendship between the former belligerents. All the frontier problems between Chile and Bolivia had been resolved by the 1904 peace treaty, signed with the full approval of their respective peoples more than 20 years after the conclusion of the war in question.

Chile had been and continued to be ready to listen to the requests made by Bolivia and, within the limit of its powers had provided the appropriate means for satisfying them, so long as they did not imply a revision of international agreements freely entered into by both countries. The recent meeting in Brazil between the Heads of State of the two countries reflected the spirit of goodwill that motivated the Government of Chile.

He wished to reiterate categorically that the matter raised by the representative of Bolivia was completely outside the mandate of the Conference, which did not cover the consideration of bilateral problems that a particular State might wish to raise vis-à-vis another State. He also wished to reaffirm his country's strong feelings of friendship towards Bolivia.

Mr. FLANGINI (Uruguay), speaking in exercise of the right of reply, said that his delegation had expressed its understanding of the problems of the Latin American land-locked countries in documents and in statements both in the Sea-Bed Committee and at the Conference. His country granted Paraguay and its nationals

the fullest access to the sea and to port facilities, although it did not receive reciprocal treatment. For example, Paraguayan nationals were allowed to unload, store, process and reload goods without charges. In that connexion he referred to the agreement on the La Plata river basin and to the URUPABOL Convention -- the name being based on the names of Uruguay, Paraguay and Bolivia -- under which a joint merchant fleet was being considered.

In exercising his right of reply, he would not dwell on Paraguay's reference to participation in the 200-mile territorial sea, since that question had already been dealt with by his delegation.

Mr. TREDINNICK (Bolivia), speaking in exercise of the right of reply, said that the 1904 treaty to which the Chilean representative had referred had been imposed on Bolivia as a conquered country and had compelled it to cede its entire sea coast. That treaty could not be cited as a model.

The chance meeting in Brazil had not produced any understanding on the situation and there had been no joint communiqué.

His delegation reserved the right to speak again on the question.

Mr. BARSEGOV (Secretary of the Committee) informed the Committee that the Syrian Arab Republic had been added to the sponsors of document A/CONF.62/C.2/L.44.

The meeting rose at 6.10 p.m.