



UNITED NATIONS



THIRD CONFERENCE ON THE LAW OF THE SEA

PROVISIONAL

For participants only

A/CONF.62/C.2/SR.35

13 August 1974

ORIGINAL: ENGLISH

Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE THIRTY-FIFTH MEETING

Held at the Parque Central, Caracas,
on Friday, 9 August 1974, at 3.25 p.m.

Chairman:

Mr. AGUILAR

Venezuela

Rapporteur:

Mr. NANDAN

Fiji

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RIGHTS AND INTERESTS OF SHELF-LOCKED STATES AND STATES WITH NARROW SHELVES OR SHORT COASTLINES (A/9021) (continued)

Mr. ROBINSON (Jamaica) asked that when preparing the informal working paper, the officers of the Committee should bear in mind his delegation's proposal in document A/CONF.62/C.2/L.35 in so far as it related to the present item.

Mr. BROWNE (Barbados) said he was completing the statement he had made at the 22nd meeting during the discussion of the exclusive economic zone; that concept could not be divorced from the notion of geographically disadvantaged States.

His country supported the concept of the exclusive economic zone as a fundamental notion embodying the principles of sovereignty over renewable and non-renewable resources and of access by developing geographically disadvantaged States to the living resources of the economic zones of the countries of a region, on equitable terms. It did not support the concept as a new economic order for some developing countries to the exclusion of others. Words of sympathy for the situation of the developing geographically disadvantaged countries were not enough: what those countries wanted was a clear and unambiguous provision in the treaty providing for their access to the living resources of a region. He therefore supported the proposals submitted by Jamaica in documents A/CONF.62/C.2/L.35 and L.36.

He could not agree with those who claimed that the concept of geographically disadvantaged States was too vague or too difficult to define or that it was of secondary concern compared with the concept of land-locked States. The Conference's task was to create a new and equitable law, not to create exceptions which discriminated against a poor section of the international community. The concept certainly had meaning to countries like his own, which were small and poor, with narrow continental shelves and few marine resources. An exclusive economic zone would be meaningless to his country without access on equitable terms to the living resources of the countries of the region.

The respective rights and obligations of States were set forth satisfactorily in article 2 of the Jamaican proposal, though he would prefer to see the words "on terms and conditions which are equitable to the States concerned" inserted in paragraph 1 and the words: "on the basis of regional, subregional and bilateral agreements or other arrangements which have legal effect in international law" inserted in paragraph 2. He was also satisfied with the definition of developing geographically disadvantaged

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(Mr. Browne, Barbados)

countries contained in article 5 of the Jamaican proposal, which covered the situation of countries like Barbados. There seemed to be embodied in the principle of the disadvantaged State the notion that the economy of that State must inevitably be adversely affected in some substantial way by the new régime for the exclusive economic zone, although that régime had in reality been intended to benefit, not harm, the economies of such countries.

Although he had confined his statement to the developing geographically disadvantaged countries, he supported the general proposals concerning the right of the land-locked countries to free access to the sea and its living resources in a region. Those countries must also be provided for in a treaty intended to be of balanced political and economic benefit to the whole community of nations.

Mr. van der ESSEN (Belgium) said that the item under discussion was not itself a problem, but was closely related to other questions of the law of the sea. Adoption of the concept of a broad economic zone adjacent to the territorial sea would mean that ships from many countries with narrow seas could reach the ocean only by crossing the adjacent zones of other countries. These countries with narrow seas should be given adequate guarantees to ensure them freedom of navigation between their ports and the sea without being subject to the arbitrary jurisdiction of the coastal States. It would be reasonable for those countries to respect the coastal State's jurisdiction in respect of international measures on pollution, for example; but compliance with national regulations, which might vary widely from country to country, could place them in an impossible position and endanger their maritime activities. Furthermore, their fishermen should be able to cross the economic zones of other countries with their catches, without the risk of being suspected of illegal fishing.

Those problems were of vital importance to the geographically disadvantaged countries, in particular those with access to semi-enclosed seas which engaged in fishing activities. His country, which had only 67 km of coastline, bordering on a narrow sea, but possessed the fourth largest world port in terms of tonnage, was very interested in the issue. However, the guarantees it called for should also benefit the land-locked countries. It was essential for the future Convention to provide and guarantee the right of access to the sea and the right to participate in the use of the sea for all countries with similar handicaps.

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Mr. JUNIUS (Liberia) said that there was a wide disparity between the positions of countries like his own which did not possess wide continental shelves and those with shelves extending hundreds of miles beyond the contemplated 200 mile economic zone. The only way to remove such disparities was to abolish the idea of the continental shelf. That would also give meaning and content to the idea of treating the high seas as the common heritage of mankind, which was the aim of the Conference.

Mr. CHAO (Singapore) said that the representatives of Nigeria and other countries, at previous meetings, had raised two very interesting ideas: first that developed disadvantaged States should not ask for a share in the resources of the sea; and secondly, that some land-locked States possessed mineral resources on land and should also not ask for a share in the sea's resources.

He agreed in principle with the idea that the sea's resources should go only to the most deserving. If development disqualified a disadvantaged State from obtaining the resources of the sea, developed coastal States should also be disqualified. Similarly, if the availability of land mineral resources disqualified disadvantaged States, it should also disqualify coastal States. It followed, therefore, that a coastal State which was either developed or possessed mineral resources on land should not claim an economic zone or rights over the sea-bed. Marine areas not claimed by coastal States according to those criteria should fall under the jurisdiction of an international ocean authority which would manage them for the benefit of all mankind. He commended such a refreshing approach, under which there would be no need to differentiate between advantaged and geographically disadvantaged States.

However, the Nigerian delegation's proposals in document A/CONF.62/C.2/L.21/Rev.1 did not differentiate between developing or developed coastal States which did or did not possess mineral resources on land. In other words, any coastal State, irrespective of development or of mineral potential on land, was entitled to claim an economic zone. Then why should those two considerations apply to the disadvantaged States? Why the double standard and discrimination? Rules or criteria should be applied uniformly.

It should be remembered that a developed land-locked State sharing the resources of the economic zone would be sharing the resources of a developed neighbour. If it were argued that a developed land-locked State should not share in the resources of the economic zone, then the developed coastal State would be in a more advantageous position

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(Mr. Chao, Singapore)

than the developing coastal State which had to share with its developing land-locked States. That would clearly create a ridiculous situation.

If the Nigerian representative was contemplating introducing those new ideas, namely considerations of development and of mineral potential on land, into his proposal, his own delegation would like to co-operate with him and perhaps become a sponsor of the final proposal.

It had also been argued that the right over the sea's mineral resources was an acquired right under the 1958 Convention on the Continental Shelf. All countries had acquired rights over the resources of the sea. The somewhat contradictory reasoning advanced to justify the establishment of an economic zone and the retention by the coastal State of the benefits derived from exploitation of the mineral resources of that zone suggested that there was an Eleventh Commandment: "Thou shalt obey the Continental Shelf Convention but thou shalt not obey the other three Geneva Conventions." The suggestion that the proposals submitted by the land-locked and geographically disadvantaged States in document A/CONF.62/C.2/L.39 were an attempt to dominate the coastal States was unjustified. His delegation could not support the proposals submitted by Pakistan in document A/CONF.62/C.2/L.43: the disadvantaged States wanted justice, not charity.

The expression "geographically disadvantaged States" must be clearly defined. The definition contained in document A/CONF.62/C.2/L.35 was a good attempt.

ARCHIPELAGOS

Mr. KAMIL (Indonesia) proposed that discussion should be postponed to the next meeting, by which time he hoped that the draft articles being prepared by his own and certain other delegations would be available.

It was so agreed.

The meeting rose at 3.55 p.m.