

An Address Before the Plenary Session of the Law of the Sea Conference

BY AMBASSADOR JOHN R. STEVENSON

Mr. President, Distinguished Representatives: first of all, I want to express on behalf of my Delegation our sincere thanks to the Venezuelan Government for the splendid arrangements it made for the Conference and for us. It is truly a miracle that since the invitation was extended by Venezuela and accepted by the General Assembly of the United Nations in December, all the preparations should have been carried out so efficiently, with such careful attention to our needs and our comfort.

Three Auguries of a Successful Conference. Mr. President, the practical and favorable working conditions which the Venezuelan Government has so graciously provided are the first of three auguries of a most successful conference. The other two are the adoption on schedule by consensus of the rules of procedure, and second, the constructive, moderate tone and the developing consensus on substance reflected in the statements given in the last two weeks.

Adoption of Rules of Procedure. The adoption of the rules of procedure on schedule by consensus was significant because these rules are a reasonable accommodation between

those who wished to avoid premature voting and those who were concerned because it showed what inspired, firm and sensitive leadership,

“We must not let this opportunity pass.”

as provided by you, sir, can do in reconciling differences and leading us to a generally acceptable result. You have set a high standard for our committee chairmen, but knowing and respecting all of them as I do, I am convinced that the team of Engo, Aguilar, Yankov and Beesley will live up to this challenge. The conference has selected its leadership with care and with great wisdom.

Moderate and Constructive Tone of General Debate. Our delegation has noted with a growing sense of appreciation and optimism for the future, the generally moderate, constructive tone of the statements made in the course of the last two weeks. Only very few delegations have departed from this general pattern, misrepresenting past events and the present positions of some delegations, including our own.

We are not here to engage in mutual recriminations. We must roll up our sleeves and get down to the practical business of drawing up a generally acceptable constitution for the oceans before disputes over con-

flicting uses of the same ocean space and unilateral action by individual states put such agreement out of our reach.

Growing Consensus on Limits of National and International Jurisdiction. In the course of listening to and reading the statements made during the last two weeks, I have been struck by the very large measure of agreement on the general outlines of an overall settlement. Most delegations that have spoken have endorsed or indicated a willingness to accept, under certain conditions and as part of a package settlement, a maximum limit of 12 miles for the territorial sea and of 200 miles for an economic zone, and an international regime for the deep seabed in the area beyond national jurisdiction.

The United States has for a number of years indicated its flexibility on the limits of coastal state resources jurisdiction. We have stressed that the content of the legal regime within such coastal state jurisdiction is more important than the limits of such jurisdiction. Accordingly, we are prepared to accept, and indeed we would welcome general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone provided it is part of an acceptable, comprehensive package including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used for international navigation. Coastal state economic jurisdiction beyond 200 miles with which



Stevenson

EDITORIAL NOTE

The Third United Nations Law of the Sea Conference (LOS), a 10-week session held in Caracas, Venezuela this summer, will without doubt have a deep and lasting impact on the world's marine resources. Because of its unprecedented importance, *Marine Fisheries Review* is printing, in its entirety, the address delivered by Ambassador John R. Stevenson, Special Representative of the President and U.S. Representative to the Law of the Sea Conference, before the Plenary Session on 11 July 1974.

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". . . Agreed international conservation and allocation standards for the rational management of tuna should in the long run benefit coastal states which seek to engage in fishing these species and would maintain the populations of the tuna that migrate through their zone.

". . . most states are prepared to agree to coastal state enforcement jurisdiction with respect to resource exploitation within the economic zone."

the Conference must deal: jurisdiction over the resources of the continental margin when it extends beyond 200 miles and jurisdiction over anadromous fish such as salmon, which originate in coastal rivers but swim far out into the ocean before returning to the stream of their birth to spawn and die.

A number of states have expressed the view that under the continental shelf convention and the continental shelf doctrine of customary international law as interpreted by the International Court of Justice, they have rights over the resources of the continental margin and that they will not accept any Law of the Sea treaty which cuts off the rights at 200 miles.

Other states are reluctant to reduce the common heritage of mankind by recognizing coastal state jurisdiction beyond 200 miles. Still others, including the United States, have suggested an approach which gives coastal states the limit they seek, but provides, through uniform payments of a percentage of the value of production, for the sharing by other states in the benefits of the exploitation of the non-renewable resources in part of the area. This would seem to be an equitable basis for an accommodation.

With respect to salmon, the views of my country are well known. This species of fish depends for survival on the maintenance at considerable economic cost of a favorable environ-

ment in coastal rivers and streams, and can effectively be conserved and managed only if caught when returning to the fresh waters of its origin.

"The very survival of this species of fish (salmon) may depend on the action we collectively take at this conference."

in the internal waters, territorial sea or economic zone of the host state. The very survival of this species of fish may depend on the action we collectively take at this conference.

Consensus on limits of national and international jurisdiction is conditional on the nature of coastal and international regimes within these limits. The statements to date make clear that in the case of a large number of states whose agreement is critical for an effective, generally acceptable treaty, the growing consensus on the limits of national jurisdiction, i.e. a maximum outer limit of 12 miles for the territorial sea and of 200 miles for the economic zone, is conditional on a satisfactory overall treaty package and, more specifically, on provisions for unimpeded transit of international straits and a balance between coastal state rights and duties within the economic zone.

Territorial Sea. With respect to the coastal states' right to establish a territorial sea of up to a maximum of 12 miles, it is the view of many delegations, including our own, that general recognition of this right must be accompanied by treaty provisions for unimpeded passage through, over, and under straits used for international navigation. The formulation of treaty language which will maintain a nondiscriminatory right of unimpeded transit while meeting coastal state concerns with respect to navigational safety, pollution, and security will be one of the second committee's most important tasks.

Economic Zone. Our willingness and that of many other delegations to accept a 200-mile outer limit for the economic zone depends on the concurrent negotiation and acceptance of correlative coastal state duties.

The coastal state rights we contemplate comprise full regulatory jurisdiction over exploration and exploitation of seabed resources, non-resource drilling, fishing for coastal and anadromous species, and installations constructed for economic purposes.

The rights of other states include freedom of navigation, overflight, and other non-resource uses.

With respect to the zone as a whole, we contemplate coastal state duties to prevent unjustifiable interference with navigation, overflight, and other non-resource uses, and to respect international environmental obligations. With regard to the seabeds and economic installations, this includes respect for international standards to prevent interference with other uses and to prevent pollution. With regard to fishing, this includes a duty to conserve living resources.

For the seabeds, we also contemplate a coastal state duty to observe exploration and exploitation arrangements it enters into.

For fisheries, to the extent that the coastal state does not fully utilize a fishery resource, we contemplate a coastal state duty to permit foreign fishing under reasonable coastal state regulations. These regulations would include conservation measures and provision for harvesting by coastal state vessels up to their capacity and

could include the payment of a reasonable license fee by foreign fishermen. We also contemplate a duty for the coastal state and all other fishing states to cooperate with each other in formulating equitable international and regional conservation and allocation regulations for highly migratory species, taking into account the unique migratory pattern of these species within and without the zones.

The negotiation and elaboration of these duties is a critical responsibility of the second committee.

With respect to the related assertions by a number of states of coastal state plenary jurisdiction over scientific research and vessel-source pollution throughout the economic zone, the statements made clear that the willingness of many delegations, including my own, to negotiate on the basis of conditional acceptance of a 200-mile economic zone does not include acceptance of a requirement of coastal state consent for scientific research and coastal state control over vessel-source pollution within the zone.

For our part, we believe that, as an alternative to coastal state consent, a series of obligations should be imposed on the researcher and his flag state to respect coastal state resource interests in the zone. The obligations

coastal states. At the same time, interference with freedom of navigation must be prevented. We believe international standards enforced by flag and port states, with provision for specific additional coastal state enforcement rights, can accommodate these legitimate interests. In this connection, we believe the coastal state may be authorized to take enforcement action in emergencies to prevent imminent danger of major harmful damage to its coast, or pursuant to a finding in dispute settlement that a flag state has unreasonably and persistently failed to enforce applicable international standards on its flag vessels. Of course, flag and port states would retain their right to set higher standards.

While important differences in our positions remain to be resolved in this session, we are heartened as we embark in these negotiations by the realization that most states want to ensure both effective prevention of vessel-source pollution and protection of navigational freedoms.

We hope that the third committee can make major progress in producing agreed articles on these scientific research and pollution questions.

International Seabed Regime Beyond National Jurisdiction. Just as coastal states rights within the zone

discriminatory access under reasonable conditions to the seabed's resources on a basis that provides for the sharing of the benefits of their exploitation with other states.

The statements made do indicate that there are substantial differences among us in our interpretation and proposed implementation of the common heritage principle. Both developing and developed countries have many aspirations concerning the common heritage; in some cases these are in harmony and in others they are not. My delegation believes that on a variety of issues which seem on the surface to present a wide gulf we are closer together than we think. Let us employ every possible method of work to ensure that we find these points of harmony and proceed at once to reflect this harmony in draft articles. This we believe is the principal task before the first committee at this session.

Interest of Landlocked and Geographically Disadvantaged States. Most prior speakers have referred to the desirability, indeed the necessity, of providing special benefits in a comprehensive Law of the Sea treaty for the landlocked and geographically disadvantaged states. The most widely supported proposals are that landlocked states' right of access to the sea and special rights in the fisheries of adjacent coastal states be recognized.

Although these recommendations do not directly affect the United States, we applaud coastal states' willingness to provide these benefits as part of an overall equitable and widely acceptable settlement and, we will, of course, support such provisions.

Much more controversial is the proposal of some landlocked and other geographically disadvantaged states that they participate in the benefits of the exploitation of non-renewable resources—principally petroleum and natural gas—of the continental margin, either through a direct right of access to neighboring coastal states' continental margins or by the establishment of limits of coastal state jurisdiction that will keep some of the continental margin outside of coastal state control and within the common heritage.

It is my delegation's view that, as

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would include advance notification, participation, data sharing, assistance in scientific research technology and in interpretation of data, and compliance with applicable international environmental standards.

Vessel-source pollution presents a troublesome problem to the entire international community, including

must, if we are to reach agreement, be balanced by duties, the international authority's jurisdiction over the exploitation of the deep seabed's resources—the common heritage of mankind—must be balanced by duties that protect the rights of individual states and their nationals—most critically in our view their right to non-

part of a satisfactory and widely acceptable treaty, an equitable and perhaps the most practical accommodation in this area may well be to provide for coastal states' exclusive rights in the continental margin, but also to provide for international payments from mineral resources at a modest and uniform rate in the area beyond 12 miles or the 200 meter isobath, whichever is further seaward. These payments would be used primarily for developing countries, including developing landlocked and other geographically disadvantaged states. Landlocked and other geographically disadvantaged states should not expect that sharing in the benefits from deep seabed hard minerals alone could make a significant contribution to their economies.

Compulsory Dispute Settlement.

Mr. President, my government believes that any Law of the Sea treaty is almost as easily susceptible of unreasonable unilateral interpretation as

in the end perhaps the most significant justification for the accommodations we are all being asked to make.

Objectives for the Caracas Session.

It is the view of my delegation that the conference should strive to adopt an entire treaty text this summer. What is required to do so is not so much technical drafting as the political will to decide a relatively small number of critical issues. Once these decisions are made, the number of treaty articles required to implement them for the territorial sea, straits, and the economic zone would not be large. The deep seabed regime will require more articles, and the first committee should concentrate on the preparation of agreed articles whenever this is possible.

What an electrifying and heartening development it would be for the international community, and what a deserved tribute to our Latin American host, if we could adopt an agreed text this session!

neither a statement of general principles, nor articles which define the rights of coastal states and of the seabed authority without defining their corresponding duties, would be satisfactory, or indeed at all acceptable, to a number of delegations including our own.

As I indicated at the outset there is already a very general agreement on the limits of the jurisdiction of coastal states and the seabed authority, provided we can agree on their corresponding obligations. It is the negotiation of these duties that should be the main thrust of the negotiations this summer.

This is not, as some delegations have implied, an attempt to destroy the essential character of the economic zone—to give its supporters a juridical concept devoid of all substantive content.

On the contrary, the coastal states exclusive control over the nonrenewable resources of the economic zone is not being challenged. In the case of fisheries, coastal state management and preferential rights over coastal and anadromous species would be recognized. The principle of full utilization will ensure that renewable resources which might not otherwise be utilized will give some economic benefit to the coastal state and help meet the international community's protein requirements. Agreed international conservation and allocation standards for the rational management of tuna should in the long run benefit coastal states which seek to engage in fishing these species and would maintain the populations of the tuna that migrate through their zone. Finally most states are prepared to agree to coastal state enforcement jurisdiction with respect to resource exploitation within the economic zone.

Gentlemen, we have come to Caracas prepared to negotiate on these critical questions. They are not merely the legal fine print to be filled in once general principles have been agreed, but the very heart of the conditional consensus we are well on the way to achieving. Years of preparation have brought us to the moment when we must complete the task that we have undertaken. We must not let this opportunity pass.

Thank you, Mr. President.

“For fisheries, to the extent that the coastal state does not fully utilize a fishery resource, we contemplate a coastal state duty to permit foreign fishing under reasonable coastal state regulations. . . We also contemplate a duty for the coastal state and all other fishing states to cooperate with each other in formulating equitable international and regional conservation and allocation regulations for highly migratory species, taking into account the unique migratory pattern of these species within and without the zones.”

are the principles of customary international law. This is particularly true when we consider that the essential balance of critical portions of the treaty, such as the economic zone, must rest upon impartial interpretation of treaty provisions. One of the primary motivations of my government in supporting the negotiation of a new Law of the Sea treaty is that of making an enduring contribution to a new structure for peaceful relations among states. Accordingly, we must reiterate our view that a system of peaceful and compulsory third-party settlement of disputes is

If we do not at least try to reach agreement on the treaty this summer, we may well not even achieve the basic minimum required to finish next year and in the interim prevent further unilateral action prejudicial to the success of the conference.

The minimum objective for Caracas, as we see it, is to complete treaty texts on most, if not all, of the critical articles—the territorial sea, straits, the economic zone, the seabed regime and the authority's functions, pollution from ocean uses, and scientific research. To achieve this objective, it is critical to recognize now that