

STATEMENT BY AMBASSADOR MOHAMMED YUNUS, LEADER OF THE  
PAKISTAN DELEGATION, IN THE INFORMAL CONSULTATIVE GROUP  
ON LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES  
ON 30 April 1975.

Mr. Chairman,

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As I speak here for the first time in my capacity as the Leader of the Pakistan Delegation, I should like to begin by expressing my felicitations to you and to say that it is both a pleasure as well as a privilege to participate in these meetings under your able guidance. It is all the more incumbent upon me to give expression to this happy note because our two countries, Pakistan and Turkey, are bound together by fraternal ties. My country, Sir, is proud of this association.

2. This is the fourth and the last meeting of this Informal Consultative Group. During our meetings, all delegations have made earnest efforts to evolve generally acceptable formulations of provisions on the questions of access and transit. The role played by you, Mr. Chairman, in this regard evokes special admiration of my delegation. The discussion has, however, revealed that there is no meeting of minds between land-locked and transit states.

3. We have been giving serious thought to the reasons which make the solution of these questions so difficult and have come to the conclusion that the difficulty arises from the fact that some of the fundamental aspects of these questions have not yet been clarified. We, therefore, consider it appropriate in our statement today to draw attention to those aspects.

4. The existence of land-locked countries is not a recent phenomenon. Such countries have always existed. Of comparatively recent occurrence, however, is the increased

attention that is being devoted to an examination of the problems arising from this incidence of geography.

5. The Conference is still sub-merged in negotiations the end of which is not yet clearly in sight. This is not surprising because, on the one hand, we have come-up against a large number of highly complex issues and, on the other, we have to ensure that, before specific provisions are formulated, all the relevant factors are placed before the Conference, properly examined and taken into account. At this stage, therefore, precipitate hurry and the attempt to beat deadlines can well result in a failure of comprehension and even of judgement - a failure that would later lead inevitably to the creation of many intractable issues of interpretation and possibly to a more serious conflict of views between the countries involved. The need for a thorough and meticulous examination of all relevant factors, therefore, can be hardly over emphasized.

6. Mr. Chairman, attention seems to have been focussed so far mainly on the problems of the land-locked countries. It seems to us, however, that an exhaustive analysis of the over-all legislative context of these highly intricate problems has not yet taken place. It is as a result of this gap in our discussions that whereas we are concentrating on the definition of other terms including some of peripheral importance, the term "access" or "right of access" is totally absent from our list. And this is so despite the fact that, without a clear definition of this term, we can hardly evolve such clear-cut formulations which would avoid serious complications arising in the future.

7. Mr. Chairman, the world map shows that the majority of land-locked states occurs in areas which, as a

whole, could be called developing or under-developed areas. No one would deny that land-locked countries should be given adequate access to the sea. But in doing so, and particularly while formulating new provisions of international law regarding the questions of access and transit, it has to be ensured that this is not done at the expense of other developing countries with limited resources.

8. A good law should be neither fragmentary nor partial. It should protect not the rights of some but the rights of all. If this is a categorical imperative for national legislation, it should be all the more so in respect of an international convention of such import and magnitude as the one this Conference is attempting to evolve.

9. The fact is that some aspects of access and transit, crucially important for developing coastal states, have not yet been taken into account. Our formulations on these questions have tended to leave them aside and consequently to become somewhat simplistic. The following questions would indicate some of the aspects that require further consideration before we can hopefully reach the stage of generally accepted formulations :

- i) If a land-locked state is a neighbour of several coastal states, does it have a right of access to all the seas surrounding those coastal states ?
- ii) If the answer to this question is in the negative, or in other words, if access to all surrounding seas is not available by right, why should a right exist in respect of any one of those seas ?
- iii) If the answer to the first question is in the affirmative, or in other words, access is available by right to all surrounding

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seas, would coastal states having access to only one sea also have the right of access to other seas through a land route, particularly if they be developing states and such access be economically indispensable for them? (This should not be confused with the question of reciprocity in transit which, being the operational aspect of the question of access, is a separate issue).

- iv) How will the inalienable right of national sovereignty of transit states be reflected
  - a) in the matter of selection of route or routes, if more routes than one through more than one transit state are available,
  - b) in the matter of selection of routes and of means of transport in a particular transit country?
- v) If within the territory of a coastal state, there are areas which, due to natural barriers, are inaccessible from its own coast, can these areas be regarded as de facto land-locked areas and enjoy access to one or more seas?
- vi) What are the implications of the development and establishment of additional transit routes in the future in a given area?
- vii) What are the safeguards against the use of access and transit facilities for importing goods intended for re-export to transit countries in contravention of the import regimes of the latter?
- viii) What is the effect on the regime of access and transit to the sea of the exercise of the sovereign rights of the transit states to take measures necessary for the political and economic security of their own territories and for the protection of human, animal or plant life and health?

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- ix) What is the effect of force majeure, natural calamities, unprecedented economic circumstances, political or other conflict among states and such other factors on the regime of access and transit to the sea ?
- x) If a coastal state is expected to provide access to the sea to one or a number of land-locked states, what is the inter-relationship between the transit traffic of these states inter se and vis-a-vis the transport requirements of the coastal state itself ?
- xi) What are the obligations of the international community towards transit states, particularly developing ones ?

10. These are some of the questions that have to be resolved before any provisions, appropriate for inclusion in an international convention of a global character are formulated. The enumeration of the foregoing questions is sufficient to demonstrate that the concept of "right of access" or simply that of "access" is no where near crystallization. How can we formulate provisions to give effect to a concept which remains shrouded with so many unanswered questions and has not even been defined ?

11. Mr. Chairman, my delegation has combed international law in vain to find a definition for the right of access which, despite lack of general agreement, land-locked states continue to press for. Instead of finding any such definition, we have come across authentic opinions that a sovereign state owes no legal duty to another to yield to the latter privileges of transit across its own territory as a matter of right. Furthermore, we found unanimity among jurists to the effect that the fundamental and universally recognised principle of national sovereignty transcends all ancillary

considerations. In fact, it is not fortuitous that international law contains few provisions for regulating access and transit to the sea. The questions involved therein differ from country to country and region to region and can not be dealt with in isolation and without regard to the interests of all states concerned. Despite the absence of any such provisions in international law, however, the questions of access and transit to the sea have been regulated by bilateral and multilateral agreements. The obligations devolving from such agreements still constitute the safest guarantee. The sanctity of a contract voluntarily arrived at by a sovereign state has always proved to be infinitely better than a contentious, nebulous right. It seems to us, therefore, paradoxical that the land-locked states should consider that their interest would be better served otherwise.

12. We have always expressed willingness in international fora to examine whether a better basis can be found for regulating the question of access and transit to the sea. The fact is that the questions of access and transit to the sea are of fundamental importance involving the vital rights and interests of nearly all countries, whether they be land-locked or coastal, developing or developed. It is, therefore, in the fitness of things that the widest possible analysis of all factors should be made before consideration is given to the rights and obligations of states in respect of these questions.

13. We have so far been hoping that, in view of the undeniable importance of the questions that I have raised, the Conference would come to focus attention on them. We find, however, that this has not yet happened. We believe that these questions should be discussed more thoroughly in the next round of our negotiations. We should, therefore, like to request that the questions that we have outlined may please be communicated to the Chairman of the Second Committee with the

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