Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings
21st plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume I (Summary Records of Plenary Meetings of the First and Second Sessions, and of Meetings of the General Committee, Second Session)*

93. The Conference had begun satisfactorily by reaching a decision by consensus, and although his delegation did not fully agree with what had been decided, it had not objected, out of a spirit of compromise.

94. Mr. AGUILAR (Venezuela) said it was a good omen that the first and highly important decision of the Conference had been taken by consensus, on the very date that had been set at the first session in New York. The Conference owed a debt to the President for his able and untiring efforts and for the long hours he had spent in consultations.

95. The Conference would now have to use the rules of procedure, basing itself primarily on the gentleman's agreement, in a spirit of openness towards negotiations. He was optimistic that members would at least be able to agree on the main points of a convention even if a complete convention could not be adopted. He was optimistic that the views of delegations could be harmonized.

96. Mr. YTURRIAGA BARBERAN (Spain) expressed his satisfaction with the results just reached. Some representatives, like apprehensive parents, might have felt that what they had produced was inadequate, but he was confident the Conference would end successfully.

97. Mr. CISSE (Senegal) said that a meeting of the African group, many delegations had expressed concern about the enormous number of concessions made by them in the course of adopting the rules of procedure. His delegation had accepted the amended rules in a spirit of compromise, hoping those concessions would be borne in mind. It should be remembered that the African countries had been absent, and their interests unrepresented, when the legal order which they were now challenging had been established. He therefore hoped that the larger countries would give attention to their views, which were legitimate ones aimed at safeguarding their economic interests.

98. The PRESIDENT said that adoption of the rules of procedure had not been the result of his work alone but had been a co-operative effort with representatives who had worked long hours. He expressed his gratitude to the Special Representative of the Secretary-General and his colleagues for their assistance.

The meeting rose at 7.30 p.m.

21st meeting

Friday, 28 June 1974, at 10.40 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

General statements

1. The PRESIDENT read out a message from Richard M. Nixon, President of the United States of America.

The meeting was suspended at 10.50 a.m. and resumed at 11 a.m.

2. Mr. FACIO (Costa Rica) said that his delegation was participating in the Conference with the conviction that it was essential to draft a convention that could be ratified by the overwhelming majority of the international community so as to avoid a situation in which the fishing fleets of the most developed countries and the multinational corporations would appropriate the ichthyological and mineral resources of the sea-bed and ocean floor that were the common heritage of mankind.

3. The Latin American States had been precursors in the development of international legal thinking on the régime of the seas: as early as 1956, the Mexico resolution, adopted by the Inter-American Council of Jurists, had established that the breadth of three miles for the delimitation of the territorial sea was insufficient and did not constitute a general rule of international law. In 1970, a large group of Latin American countries had adopted the Montevideo[1] and Lima[2] Declarations which stressed the economic interest of the coastal States in disposing of the natural resources of the sea and noted the geographical, economic and social link between the sea, the land and man, which gave the coastal States legitimate priority in the utilization of the natural resources of the marine environment. In 1972, the Declaration of Santo Domingo[3] had been signed, which had made clear the need to establish two zones in ocean space; one under the jurisdiction of coastal States, extending not more than 200 miles, and another subject to the authority of the international community.

4. The concept of the patrimonial sea had come into being as a consequence of the economic needs of Latin America, which was a region with a birth-rate of over 3 per cent a year, compared with 1.5 per cent in the industrialized countries. That situation made it essential for the peoples of those countries to be able to make maximum use of the natural resources existing off their coasts in order to combat malnutrition and underdevelopment.

5. Objections had been raised to the 200-miles thesis, on the ground that it would mean the closing of vast areas of the sea to free navigation. That argument would be seen to be baseless if it was taken into account that the Declaration of Santo Domingo distinguished between a territorial sea 12 miles wide in which the coastal State would exercise every aspect of full sovereignty, and a patrimonial sea, or zone of exclusive economic jurisdiction, extending to a maximum of a further 188 miles, in which the coastal State would exercise limited sovereignty over exploration, exploitation and conservation of its marine resources both on the sea-bed and in the subsoil, the exercise of that jurisdiction not, however, impeding free navigation or the additional right to lay submarine cables and pipelines. He noted with satisfaction that even the naval Powers were now ready to accept a 12-mile limit provided that it did not limit their freedom of navigation over and through straits. The Conference would have to find a suitable formula to meet that condition, because it was unrealistic to think that a naval Power would agree that the movement of its fleets should be subject to the goodwill of coastal States in international straits less than 24 miles wide. The formula might perhaps take the form of specific agreements regulating navigation and overflight in each of the international straits.

6. He stressed that the economic zone could not be the same width everywhere, which was why mention had been made of a maximum limit of 200 miles, to be reduced when the distance separating two States was less than 400 miles, as was the case with the coastal States of the Caribbean, where exact rules would have to be drawn up to delimit the patrimonial sea and even the territorial sea of neighbouring States.

[1] See A/AC.138/34.

[2] See A/AC.138/28.

[3] *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21* and corrigenda, annex I, sect. 2.

7. Objections had also been raised to the concept of the patrimonial sea on the ground that, when the coastal State did not have the technical capacity to exploit the fishing potential, there would be a waste of resources which, if properly exploited by foreigners, would alleviate the world shortage of protein foods. Actually, that situation would not arise in practice, because the coastal State could always grant concessions to foreign companies to engage in fishing, subject to the conservation standards set by the coastal State and in return for payment of suitable compensation. In any case, it could be established in the future convention on the law of the sea that a coastal State unable to exploit all the living resources of its patrimonial sea would be obliged to grant concessions on reasonable terms and conditions to foreign fishermen.

8. Moreover, as far as fisheries were concerned, it should be recognized that a State in whose rivers anadromous species spawned should have some jurisdiction over the regulation of fishing for those species beyond the patrimonial sea; it was also essential to agree that the fishing and conservation of highly migratory species should be regulated by international or regional authorities with the participation of all coastal States and fishermen directly concerned.

9. Another problem the Conference would have to deal with was that of the continental shelf, in respect of the breadth of which the Geneva Conference had adopted the dual criterion of depth and exploitability, thus, in an effort to place geographically different States on an equal footing before the law, failing to take into account the fact that the legal breadth of the shelf could not be greater than its geophysical breadth, which consisted of the continental incline, slope and rise.

10. The fair solution for countries with a narrow shelf was to be found in the concept of the patrimonial sea, because, since that concept included the right to conserve, prospect for and exploit the natural resources of the sea-bed and ocean floor and of the superjacent waters contiguous to the territorial sea, States without a wide shelf would still have exclusive jurisdiction over the resources of the sea-bed up to a distance of 200 miles from their coasts despite the fact that they did not have a true continental shelf. In accordance with that criterion, the Declaration of Santo Domingo had included the following provision:

> "In that part of the continental shelf covered by the patrimonial sea the legal régime provided for this area shall apply. With respect to the part beyond the patrimonial sea, the régime established for the continental shelf by international law shall apply."

11. In addition, the geomorphological concept of the shelf entailed recognition of the sovereignty of the coastal State over the whole platform, including the outer edge of the continental rise, which might be located more than 200 miles from the coast. While the notion of adjacency might justify interpreting the criterion of exploitability as signifying the limit of the platform, such a criterion might lead to a restriction of the idea of exploiting the sea-bed and ocean floor beyond national jurisdiction for the common benefit of mankind, since, as oceanographic technology developed, it would be possible to exploit the sea-bed at a greater depth and if it was accepted that the continental shelf extended to the point where the depth of the superjacent waters allowed its exploitation, the great Powers might consider as their shelf not only that part that exhibited those geomorphological features, but all the sea-bed off their coasts, which would diminish the extent of the international sea-bed and ocean floor.

12. In those circumstances, it was essential for the Conference on the Law of the Sea to establish the outer limits of the continental shelf more precisely, taking into account its geomorphological characteristics, and not the variable criteria of depth and exploitability. Accordingly, his delegation fully supported the formula set out in article 13 of the draft articles submitted by the delegations of Colombia, Mexico and Venezuela (A/9021 and Corr.1 and 3, vol. III, sect. 9).

13. Another problem that had to be solved was the definition of the way in which the competence of the international community over the sea-bed and ocean floor beyond the limits of national jurisdiction was to be exercised. His delegation agreed with those delegations that maintained that an authority must be set up to administer the international zone of the seas to ensure that its resources would be truly the common heritage of mankind.

14. In conclusion he stated that the Conference on the Law of the Sea must adopt rules to prevent the pollution of the marine environment, which threatened the survival of the living resources of the sea. Those rules must require only what was absolutely essential to prevent or contain pollution, in order to ensure that the developing countries would be able to comply with them. Although his delegation agreed with the freedom of scientific investigation of the seas, it believed that such investigation must be carried out in such a way as to promote the transfer of technology, which was the sole means of ensuring that in the future the developing countries would be able to assume directly the responsibility incumbent upon them in that international task.

15. Mr. SARAIVA GUERREIRO (Brazil) said that after the three years it had taken to prepare the Conference it was to be expected that a clearer idea existed as to the extent to which the interests at stake could be harmonized to facilitate the establishment of a universally acceptable body of norms on the use of the sea. Like other countries which had extended their sovereignty up to a 200-mile limit, Brazil had had confirmation of its conviction that that limit was adequate and necessary to protect the interests of coastal countries. Those interests included, among other things, accelerated economic development, exploration of the resources of the sea, conservation of the ecology of the marine environment, and supervision of scientific research to improve knowledge of that environment. The adoption of that limit had not been considered prejudicial to the legitimate interests of the international community, particularly with regard to the need to keep international communications open and secure.

16. It was in the interest of the international community to guarantee communications. What was involved was the right of transit, rather than the freedom of navigation traditionally associated with the high seas, since of necessity, that freedom was subject to the limitations arising from the exercise of their competences by the coastal States. However, such limitations should not create tangible difficulties for international navigation, which States which had the 200-mile limit had sought to guarantee. Some had continued to recognize, by applying old concepts, freedom of navigation in the areas they had incorporated, although in fact a régime had been created which was not identical with that of the high seas. Other States, such as Brazil, applied to their territorial sea the traditional régime of "innocent passage", but they interpreted it less subjectively than would have been permissible under customary international law, or under the 1958 Convention on the Territorial Sea and the Contiguous Zone.[4] Brazilian legislation and practice had always guaranteed free transit in the territorial sea provided that activities unconnected with navigation were not carried out. On that basis it would be possible to create a new concept reflecting the régime of navigation in the area over which national sovereignty had been extended. Recently the Minister for Foreign Affairs of Brazil had said that, with regard to maritime navigation and overflight in the territorial sea, Brazil believed that through the very exercise of sovereignty, which was actually the sum total of jurisdictions, it was possible to achieve an international solution which would both

[4] United Nations, *Treaty Series*, vol. 516, p. 206.

satisfy the interests of the coastal State and provide the indispensable objective guarantees for navigation.

17. In theory there would be no less than three ways of defining the régime of navigation in the sea area under national sovereignty or jurisdiction between the belt contiguous to the coast, in which the régime of innocent passage prevailed, and the international zone, in which the traditional freedom of navigation was maintained. Firstly, it could be said that in that intermediate area a modified freedom of navigation and overflight was admitted, modified because restricted by the power of the coastal State to exercise its sovereign right to control the natural resources, scientific research and pollution. Secondly, in that area of sovereignty a liberalized régime of innocent passage applied, characterized by the non-imposition by the coastal State of zones in which navigation was prohibited or of regulations on the passage of warships, the coastal State retaining the right to authorize military exercises with weapons and explosives. Thirdly, a simpler and realistic formula was to declare that, in that intermediate area, free transit would be permitted exclusively for the purposes of navigation, transport and communications. That formula would be the counterpart of one which would define the sovereignty or sovereign rights of coastal States on the basis of the purpose for which the territorial sea was used.

18. In March 1973 the delegation of Brazil had occasion at a meeting of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction to express its satisfaction with concepts such as that of the patrimonial sea, proclaimed by a large number of Latin American countries in the Santo Domingo Declaration, and that of the exclusive economic zone, affirmed by the African States on several occasions. The growing acceptance of those concepts was a clear indication of the irreversible trend towards a new legal order for the oceans, which had found simple, logical and coherent expression in the adoption of a territorial sea of 200 miles. Nevertheless, more important than the definition of the legal basis of the powers to be exercised was that of the nature of such powers and the determination of rights which could not be denied to third States, such as that of using the sea for purposes of communication.

19. The concepts of the patrimonial sea and of an economic zone could be of value only if they preserved their original substance and meaning. Consequently, any attempt to confuse the issue by using the old terms as a guise for putting forward new proposals different in both kind and purpose must be opposed.

20. The delegation of Brazil considered that, in addition to the question of the nature and scope of the rights of the coastal State over the adjacent sea, a matter of paramount interest was the question of land-locked States, whose legitimate interests, especially in the case of the developing countries, should be safeguarded. His delegation would seek a general formula which reflected the policy of co-operation which Brazil had always maintained with its neighbours and friends, Bolivia and Paraguay, by providing them with facilities through its territory for a very wide access to the sea, so that they might use it effectively.

21. Regarding the régime and machinery to be applied to the sea-bed and ocean floor beyond the limits of national jurisdiction, his delegation would do its utmost to ensure that a system of exploitation was applied in that area, now recognized as the common heritage of mankind, which guaranteed that all nations would share equally in its benefits.

22. Mr. GALINDO POHL (El Salvador) recalled that 24 years ago El Salvador had espoused the thesis and doctrine of the 200-mile limit, thus helping to pave the way for a new régime of the seas. The innovations proposed by Latin American countries under the impact of the Truman Declaration had acquired respectability with the support given in international forums and in the Declarations of Montevideo, Lima and Santo Domingo as well as the Declaration of Addis Ababa (A/CONF.62/33). Africans, Asians and Latin Americans had come together in a common effort linked to their prospects of development.

23. The situation had changed radically between 1958 and 1974 and now the rights of the coastal State over an area additional to that of innocent passage were part of the limited stock of possible means of solving one of the most difficult questions which confronted the Conference. However, two crucial questions should be resolved, namely, the nature and scope of such rights, and the breadth of the areas in which they were to be recognized.

24. Among the interminable series of unilateral measures, draft laws and conventions which had, in recent years, borne witness to the inadequacy of the former law of the sea, and had tended to create a new law, mention should be made of the national debate on fishing areas which was taking place in the United States, in particular the great significance of the bill on a provisional enlarged fishing and administrative area, which the House of Representatives of that country had been discussing since June 1973.

25. The road ahead was long and difficult because, in addition to problems of language, stereotypes, and even the academic training of the negotiators, there was the inherently intricate panorama of political negotiation. What mattered was to reach a political agreement which could then be translated into legal terms. Concepts should be redefined according to their basic tenets, ideas should be re-examined and there should be more emphasis on content rather than on words, on substance than on form, on political agreement as the first stage, and legal formulation as the second.

26. A number of patterns had been examined outlining in brief positions which were relatively similar and could be briefly summarized, in the context of the rights of coastal States, as the positions of territorialists, patrimonialists, preferentialists, and supporters of the economic zone. Frequently the range covered a variety of positions, which, while having certain features in common, also had pronounced individual facets justifying the creation of several groups. The competences of the coastal State, expressed in terms such as sovereignty, jurisdiction, jurisdiction and control, authority and control, and sovereign right led to arguments and differences of opinion.

27. Another pitfall, arising from the legal training of negotiators, was the various forms of interpreting sovereignty. According to Anglo-American legal thinking, sovereignty appeared to be understood as the expression of absolute rights and when the Truman Proclamation had been formulated, it had been thought necessary to use the words "jurisdiction and control" to express the fact that limited rights were meant. However, with that formulation the State arrogated to itself powers similar to those which would be expressed in the context of sovereignty with limitations. For that reason many interpreters, especially Latin American ones, had understood that the Truman Proclamation asserted sovereignty over the continental shelf. The Latin Americans who had proclaimed sovereignty outright had claimed for themselves the same rights and competences as President Truman had claimed by using the term "jurisdiction".

28. Bodin, the father of the concept and doctrine of sovereignty, had set forth in his "*Les Six Livres de la République*" the doctrine of absolute and unlimited sovereignty, but in other volumes he had acknowledged the limitations of State power, which had provided his successors with material for both the thesis of unlimited power and absolutism, as well as for limitation and relativity.

29. After having for many years used the term "jurisdiction and control" taken from the Truman Proclamation, the International Law Commission had decided to use the term "sover-

eign rights" to designate the rights of the coastal State over its continental shelf.

30. In order to examine the positions of coastal States with respect to the adjacent sea, it was necessary to distinguish between sovereignty understood as the nature of State power, and sovereignty as an amalgam of legal competences. In the former case, the same power existed both when State competences were referred to in the aggregate by the term "sovereignty", and when there was an assignment of jurisdiction, or jurisdiction and control, or authority and control, or sovereign rights for specific purposes. In the latter case however, sovereignty did not express the nature of the power concerned, but existed as an amalgam of State competences outside the framework of their aims and purposes. Reduced to its basic elements, the over-all reference to competence was equivalent to an enumeration of specific competences, and, consequently, no grounds of principle existed to prevent sovereignty from being characterized by aims and purposes.

31. As to the nature of power, it was not possible to distinguish between sovereignty, jurisdiction and sovereign rights; with regard to the competences in question, their general treatment should be viewed in the context of sovereignty and their specific treatment in the context of the enumeration of competences.

32. Territorialists, patrimonialists and supporters of the economic zone claimed powers associated with the following aspects: exploration, exploitation and protection of renewable and non-renewable natural resources situated in the waters, on the sea-bed and in the subsoil of a given zone of not more than 200 miles; regulation of exploration, exploitation and protection of such resources; protection of the marine environment and of living species; regulation, subject to certain rather liberal provisos, of scientific research; siting and use of airports, islands and other artificial installations.

33. Nevertheless, El Salvador considered that such an enumeration was inadequate and should be supplemented by the power associated with other economic uses of the sea.

34. One important point should be mentioned, namely that territorialists and supporters of the economic zone claimed competence with regard to the zone, including its resources, and not only over the resources of the zone. El Salvador was one of the countries which maintained that the reference to the competences of the coastal State should fall within the scope of sovereignty, and considered sovereignty to be limited, in essence and by nature, and susceptible of limitation by agreement. For that reason the Salvadorian Constitution recognized State sovereignty tempered by honesty, justice and social propriety.

35. The régime of free navigation was the major factor limiting State power in the area adjacent to the other area which traditionally had been subject to the régime of innocent passage, because in that area there were two types of interest: economic interest and security interest.

36. Conservation of the sea as a means of communication and transport was of paramount importance. In the seventeenth century freedom of navigation seemed to have been associated with unlimited fishing rights, since at that time the resources of the sea appeared to be inexhaustible; with modern techniques of exploitation, however, the resources of the sea were in fact exhaustible. Moreover, today, navigation had to be regulated, since it could cause pollution and destroy biological resources.

37. As for the immediate consequences, there were no insoluble differences between the three positions so far considered, provided negotiations were carried on with due respect for national political rights and, in particular, for legislative requirements. As to the preferentialists, everything would depend on the competences and the modalities thereof which they were prepared to recognize. Generally speaking, the preferentialists believed that most of the competences should remain in the purview of the international community.

38. So far the analysis had been limited to the immediate consequences of the general reference to and specific enumeration of competences, but the question arose as to what the consequences of those two techniques would be in the future or, in other words, what would happen with regard to the uses and exploitation of the sea that might be discovered through technology and how the norms agreed upon would be interpreted.

39. The analogy would not be a rule of interpretation applicable to the enumerative technique, which, according to its own philosophy, would have to be interpreted in a strict and limited way.

40. Consequently, if that technique was used, much care would be needed in enumerating the competences, because those not mentioned because of the objectives or purposes would remain outside national jurisdictions and in the purview of the international community or, for practical purposes, in the purview of other States. It was therefore important that there should be a reference to the other economic uses of the sea.

41. When interpreting the agreed rules, doubtful cases and marginal cases would be settled in favour of the coastal State if the general technique was used, and in favour of the international community, in other words, of the great maritime Powers, if the enumerative technique was used.

42. Because of those future consequences, his delegation considered that the general statement of competences under sovereignty would safeguard the aspirations and interests of the States that had advocated the creation and recognition of the new maritime zone between the zone subject to the régime of innocent passage and the high seas. The two techniques could coincide in certain circumstances, but they would diverge increasingly in the future.

43. His delegation could not believe that the Conference on the Law of the Sea could be successful unless an appropriate solution was found to the demands of the land-locked States and, in general, of States in a geographically disadvantaged situation, particularly in the case of the developing countries. There was therefore a need to define more clearly the characteristics of States that could be considered to be in a geographically disadvantaged situation. That would require an examination not only of their physical, but also their political and human geography.

44. The same was true of the archipelagic States. The Conference must recognize the inherent features of those States and the maritime implications of their physico-political peculiarities, although care would be needed in clearly defining those terms so as to avoid the ambiguities that might arise from, for example, the possession of very distant islands by continental States.

45. Nor was it possible to forget the questions connected with international straits, islands and frontal and lateral delimitation, the international zone of the sea-bed and the settlement of disputes.

46. The general system and specifications for the settlement of disputes were part of the treaty being negotiated. The use of the traditional modalities available under international law would probably have to be supplemented with subtle new elements, particularly when the question arose of defining shares in the common whole constituted by the international zone of the sea-bed.

47. His delegation was in favour of solutions by consensus as a general guarantee of meaningful negotiations and as a means of ensuring that the convention would command wide support and become a law of the seas. But, if it was not possible to reach a consensus, large majorities would be needed to provide a way out with opportunities for consolidation.

48. What was needed was to ensure that every possible effort was made to enable the Conference on the Law of the Sea to produce a convention that would command the support that the 1958 Geneva Conventions lacked.

49. Mr. MOE (Barbados) said that his country was participating in the Conference on the Law of the Sea with the firm expectation that all States would agree upon the essential principles and rules for an equitable system of law to govern the sea, at a time when there were signs of the same indiscriminate exploitation of the marine environment which had characterized past centuries.

50. A nation such as Barbados, which had recently obtained its independence and had not participated in the formulation of the existing international law of the sea, could not be expected to accept as just those rules and principles which reflected the interests of the great maritime Powers and which, far from solving present-day problems of the sea, served merely to widen the gap between the developed and developing countries.

51. Thus, his delegation felt that it was fundamental that any new legal order for the sea should be based on an economic arrangement between the two groups of countries and, indeed, it saw the Conference as a great opportunity to devise a legal framework whereby the resources of the sea could be used as a vehicle for co-operation and economic development, the transfer of technology and the removal of economic imbalances.

52. Barbados, which had limited land resources, now looked to its coastal waters for the food resources which it required to supplement its economy. It was therefore vital that any law of the sea should take into account the access of the small developing coastal countries to the living resources of the seas in the region in which these were situated.

53. With respect to the specific questions to be considered by the Conference, reference must be made first of all to the question of the territorial sea. In that connexion, his delegation felt that the principle upon which the breadth of the territorial sea should be based was the need for an adequate boundary area of sea and sea-bed for the political and social security of a State. To that end, his delegation considered that a territorial sea with a maximum breadth of 12 miles was in keeping with international law and practice and it would support such a proposal, subject to the condition that there should be an agreement for the establishment of a zone of economic jurisdiction in an area adjacent to the territorial sea.

54. It was a recognized fact that the coastal State had a special interest in the conservation and preservation of the natural resources of the sea contiguous to its territorial sea, and economic necessity justified the principle that a coastal State could unilaterally extend its jurisdiction and control over the natural resources of the sea-bed and subsoil of the continental shelf in such a zone. His delegation therefore maintained that it was reasonable, and consistent with the development of international law, that the coastal State should have the right to explore and exploit such resources up to a distance of 200 miles. That concept of the patrimonial sea would provide some hope for the economic advancement so badly needed by the developing countries.

55. With respect to the international zone of the sea-bed, recognized as the common heritage of mankind by the United Nations, his delegation supported the idea of a common régime which, by preventing cut-throat competition for the riches of the sea-bed and ocean and the consequent dissipation of those resources, would ensure a sharing of its benefits. It was therefore necessary to establish an authority representative of all nations of the world which would consist of a general assembly open to all members, in which each member would have the right to vote, and an executive body, whose membership would reflect the principle of equitable geographical representation. That authority would have the power to undertake, directly or indirectly, and in any case under its effective control, all activities of exploration and exploitation of the sea-bed in order to ensure equitable distribution of its economic benefits, taking into account the special interests and needs of developing countries.

56. Barbados also attached great importance to the protection of the sea-bed, for which strict rules must be laid down. It was not only the pollution of the marine environment which should be avoided, but also its economic and social consequences, from which there could be no hope of escape. Marine pollution respected no boundaries and thus national measures must be complemented by international action, provided that it did not impede the industrial development of the developing countries.

57. Mr. CAMARA (Guinea) said that the work of the Conference was being followed closely by the entire world since it not only would lead to the establishment of a legal order for the sea but also was being carried out in the context of the crisis which was affecting relations between the highly developed countries on the one hand and the majority of the peoples of Asia, Africa, Latin America and the Caribbean on the other. The Republic of Guinea, whose natural wealth included a sea filled with ichthyological resources and which anticipated the exploitation of possible hydrocarbon resources at a distance of less than 100 miles from its coast, firmly believed that the way to ensure that the exploitation of land and marine resources benefited all peoples was to guarantee the security, independence and sovereignty of countries. Ever since it had attained its independence from French colonialism, Guinea had been, and it continued to be, the permanent target of international imperialism; in addition, it had been the victim of aggression by the Portuguese empire. Thus Guinea's primordial concern was to ensure its security and to develop, at the same time, the material foundation of its independence.

58. The right of any people to its livelihood and development presupposed the occupation of the land and air space which defined the nation. For example, the right of the United States of America, China, the Soviet Union, the United Kingdom or France to control their air space had never been questioned. But space was multidimensional, reflecting the interests of a community. Consequently, if it was considered that air space formed an integral part of the national heritage, it should be acknowledged that the same legal notion applied with respect to the sovereignty of coastal States over a part of their coasts.

59. In 1964, Guinea had delimited its territorial zone, which had a direct bearing on its security and its economic development. That measure, although it had been made known, had not given rise to any objections. Furthermore, it had been made known that in that same zone there had been important explorations of resources the results of which had opened up great possibilities for Guinea's economic and social development. Nevertheless, those discoveries had been sufficient for a movement to be organized and intensified, directed by certain Powers, aimed at reducing the ocean space of States. In the light of that subtle trend towards the undermining of the security and the economic bases of States, in particular of the developing countries, Guinea unequivocally affirmed that it would not reduce, under any pressure or for any reason, the minimum limit of 130 miles which it had fixed for its territorial sea. However, aware of the need for communication and international trade, Guinea would allow all nations, as well as individuals and bodies corporate, complete freedom of navigation. It should be noted that Guinea had never impeded that freedom of navigation, which some maritime Powers had systematically abused by exploiting the ichthyological resources in Guinea's territorial waters and by endangering its fisheries.

60. With respect to the régime for the exploitation of the resources in Guinea's territorial waters, he stressed that his country, while it would not mortgage the future of its people by permitting such exploitation under any condition whatever, was aware of the economic interdependence of all nations. For

that reason, it sought true international co-operation which would lead to the replacement of exploitation by co-operation.

61. Capitalism had given rise to a polarization characterized by technical and financial progress in North America and Europe on the one hand, and by under-development and scientific and technological backwardness, in short, by poverty and misery, in Asia, Africa, Latin America and the Caribbean on the other. Thus the world was divided not only between capitalist régimes and socialist régimes, but, even more, between industrialized and non-industrialized countries, between rich and poor, between those who, thanks to their technical advancement, were exploiting the natural wealth to their satisfaction and those, including two thirds of mankind, who sold their raw materials under increasingly unjust conditions. Under those circumstances, one might wonder how the United Nations could succeed in its ideal of universality, justice, security, peaceful coexistence, development and well-being for all peoples if a system of relationships was maintained in which the rich were becoming increasingly rich and the poor increasingly poor. In view of the claim by some Powers that they should assume certain privileges in order, as they said, to ensure world security, Guinea maintained that the present situation must not be allowed to continue. It would be a tragic farce if, instead of reacting vigorously to that situation, the peoples, in their desire to bring about a change, were to plead for the generosity of those who were profiting from it. Justice, both economic and social, was not granted: it must be won.

62. His delegation, speaking for a people which had been identified with the cause of all peoples fighting for freedom, the inalienable right of peoples, was mindful that while there were independent nations which were still suffering from economic exploitation, there were other nations which were at that very time suffering from odious colonial domination. The liberation movements operating in Angola, Mozambique, Zimbabwe, Namibia, South Africa and the Middle East were fighting for the restitution of their fatherlands and were the authentic representatives of their respective peoples. They deserved to occupy a place at the Conference, so that any decisions which might be adopted on behalf of States and peoples would have greater guarantees.

63. Within the framework of the Conference in which the foundation of a new régime of ocean space was to be established, Guinea was opposed to, and would always oppose, the iniquitous and unjust system represented by exploitation and economic imperialism, and would seek to replace it by dynamic, egalitarian and genuine co-operation. If that was the meaning of consensus, Guinea was in favour of consensus.

The meeting rose at 1.05 p.m.

22nd meeting

Friday, 28 June 1974, at 3.20 p.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

In the absence of the President, Mr. Al-Saud Al-Sabah (Kuwait) Vice-President, took the Chair.

General statements (*continued*)

1. Mr. VU'O'NG' VAN BAC (Republic of Viet-Nam), after paying a tribute to the host country, the Secretary-General of the United Nations and the President of the Conference, said that his country had a long-standing interest in working out a new law of the sea more in keeping with the times. It had participated in the United Nations Conferences on the Law of the Sea in 1958 and 1960, the Second Ministerial Meeting of the Group of 77 at Lima in 1971 and the Third Session of the United Nations Conference on Trade and Development in 1972. Despite the hardships caused by aggression from the North, his country had continued to attend to the legal problems and opportunities associated with the maritime space adjacent to its national territory. In 1967, the Republic of Viet-Nam had proclaimed its exclusive competence and direct control over the part of the continental shelf contiguous to the South Viet-Namese territorial sea. In 1970 a law was passed to regulate prospecting for, exploration for, and exploitation of the Republic's hydrocarbon resources, and in 1972 a decree was issued establishing an exclusive fishery zone extending 50 nautical miles from the outer limit of the territorial sea. The vote on a bill to fix new limits for the territorial sea and fishery zone had been postponed pending the results of the work of the Conference, so as to ensure compliance of the law with generally accepted standards. That in itself was sufficient to show his country's interest in the codification of the new law of the sea. Moreover, despite the paucity of the Republic's human and material resources, it had taken an active part in the preparatory work of the Conference. His country's constant and profound interest in a law of the sea that would command general observance was explained by the Republic's natural position as a maritime State and by its fundamental political orientation.

2. Because of its geographical position, the Republic of Viet-Nam was naturally sea-minded. It saw in the rational use and exploitation of the adjacent ocean space the key to a brilliant future for the Viet-Namese nation. Many of the country's inhabitants lived off the sea, and the prospects for exploiting the riches of its continental shelf were most encouraging. It was not surprising, therefore, that his country was closely interested in any development relating to the law of the sea.

3. That natural interest accorded perfectly with his country's profound attachment to the cause of peace and international co-operation. The Republic of Viet-Nam had signed the cease-fire agreement and done everything to implement it, and it had proposed substantial demobilization and the holding of free and honest general elections to settle the whole South Viet-Namese problem. He wished to reaffirm his Government's firm resolve to respect scrupulously and to implement fully the Paris Agreement of 27 January 1973, and it hoped that the other parties would do likewise. His country also believed in the virtue of international co-operation. It maintained friendly relations and co-operated with many of the countries present. It was ready to establish relations with other countries on a basis of mutual respect for sovereignty and territorial integrity and of non-interference in each country's domestic affairs. It was a member of United Nations specialized agencies and many other international organizations, and it was always ready to make a positive contribution to joint undertakings at the regional and world level. That was why it was playing its part in the Third United Nations Conference on the Law of the Sea by contributing to the drafting of a new law of the sea—a decisive stage on the road to peace and international co-operation.