Third United Nations Conference on the Law of the Sea

1973-1982
Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-
A/CONF.62/ SR.23

Summary Records of Plenary Meetings
23rd 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)*

and Zambia. It went without saying that any convention agreed to by the Conference would, as far as Namibia was concerned, require ratification by the Government of an independent Namibia.

50. The United Nations Council for Namibia wished to express its satisfaction at the adoption of the amendment to rule 62A of the rules of procedure of the Conference. That amendment had rightly recognized that the Council should not be treated as a specialized agency. While it was understandable that the specialized agencies should participate in the Conference only when the questions within the scope of their activities were being discussed, the Council had a special status. Its interest extended to all subjects and issues before the Conference and it should have the right to participate on a continuing basis.

51. The Council, which was most grateful and proud to represent Namibia, wished to thank the countries of Latin America, the overwhelming majority of which, together with the freedom-loving peoples of Africa and Asia, had been extending valuable support to the just cause of the people of Namibia.

Mr. Al-Saud Al-Sabah resumed the Chair.

52. Mr. KAPOOR (International Hydrographic Organization), recalling that he had made a statement in March 1973 at the 92nd meeting of the sea-bed Committee, said that the International Hydrographic Organization had been founded in 1921 for the purpose of facilitating the exchange of hydrographic knowledge and promoting maximum standardization of charts and nautical documents and of the techniques used in hydrographic and bathymetric surveys. Considerable success had been achieved in that field, and a world-wide international series of charts was now being produced according to international specifications by a number of States members of the International Hydrographic Organization, as a co-operative venture; any member might incorporate in its own series charts produced by other States.

53. A nautical chart was an instrument compiled from precise and intensive surveys made at sea to delineate the nature of the bottom topography, navigable channels, underwater obstructions and so forth. It was used as a scientific instrument for the purpose of navigation, for the location of fishing grounds, for the laying of cables and pipelines, or for the exploration and exploitation of sea resources. Charts provided information needed for the work of the Conference on the Law of the Sea in so far as it related to defining limits and evaluating morphological factors; they provided the basis for the construction of baselines, the demarcation of international maritime boundaries, fishery zones, traffic separation schemes, etc. To provide that information, major resurveys would be needed in many parts of the world, as many current charts were based on old data. Considerable resources, both in vessels and in technical personnel, would be needed for those surveys, and existing facilities would have to be strengthened and hydrographic services established in many countries. The International Hydrographic Organization believed that hydrographic facilities should be established in developing countries and was ready to provide the necessary technical advice and assistance in training, equipment and technology.

54. A programme to provide bathymetric data on a global basis for the use of the world scientific community had been initiated in 1903 and had been taken over by the International Hydrographic Organization in 1932. The data collected so far had been acquired through co-operative research programmes and hydrographic expeditions, and constituted the only global collection of ocean depths. The numerous data accumulated over the years varied in reliability and in density; in certain areas they were so sparse that they did not permit of any accurate morphological interpretation. So far, three complete editions of a world series of general bathymetric charts had been issued. A new series, in which scientists and hydrographers were co-operating, was being compiled under a programme sponsored jointly by the Intergovernmental Oceanographic Commission of UNESCO and the International Hydrographic Organization.

55. The International Hydrographic Organization was willing to co-operate fully in the work of the Conference and would be prepared at all times to provide such technical assistance as was within its competence.

56. Mr. OGISO (Japan) said that the representative of the Democratic People's Republic of Korea had, in his statement, made certain references to agreements between the Republic of Korea and Japan. He could not accept the allegations he had made in that connexion, and he reserved his right to reply at an appropriate time.

The meeting rose at 5.25 p.m.

23rd meeting

Monday, 1 July 1974, at 10.40 a.m.

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

General statements (*continued*)

1. Mr. JOSEPH (Trinidad and Tobago) observed that his country had not attended the two previous United Nations Conferences on the Law of the Sea, which had been held before it had attained its independence in 1962, and that it had therefore played no part in shaping the existing law. It was, however, a party to the four 1958 Geneva Conventions. It had also participated actively in the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction from its inception, and was among those delegations which had called for the convening of the present Conference, in order that questions relating to the law of the sea could be dealt with comprehensively.

2. The Conference, in which the developing countries would now participate, would seek to establish new norms of international conduct in ocean space, norms which should reflect technological advances and the necessary adjustments which international social justice and equity required. In seeking such norms, however, the Conference should by no means erode those fundamental principles of existing law which were peremptory in their character and application.

3. The principle of the common heritage of mankind was the corner-stone on which the Conference must build any institutional mechanism to govern the marine area beyond national jurisdiction. For that reason, pending the establishment of an international régime and machinery, there should be no unilateral exploitation of the resources of the international sea-bed area. His delegation supported the creation of a strong international authority with comprehensive powers, which would govern and control the area, and which would, by itself or in association with others, explore it and exploit its resources for the benefit of the entire international community.

4. As an island State, Trinidad and Tobago had rejected in the sea-bed Committee proposals aimed at establishing a régime which would have discriminated against islands by curtailing their jurisdiction and their sovereignty over the ocean space adjacent to their coasts. That would continue to be its stand at the Conference.

5. His delegation saw an organic link between the issues of the territorial sea, the exclusive economic zone, and regional, subregional or other arrangements for preferential or equal rights of access to living resources within exclusive economic zones or zones of national jurisdiction.

6. Trinidad and Tobago at present had a territorial sea of 12 nautical miles, over which it exercised full sovereignty subject to the right of innocent passage for other States. As a signatory to the Declaration of Santo Domingo of June 1972,[1] it also subscribed to the concept of the exclusive economic zone of 200 miles. That Declaration, however, admitted of the possibility of concluding regional or subregional agreements. The prior acceptance by the Conference of such agreements regarding rights of access to living resources within the exclusive economic zone of States in a subregion or region, as those terms were understood in the United Nations, was essential for the embodiment into any new law of the sea of principles similar to those enunciated in the Declaration of Santo Domingo.

7. Trinidad and Tobago would make its acceptance of the concept of the exclusive economic zone of 200 miles conditional on the recognition by the Conference of preferential rights of access for every State within a region or subregion to the living resources of the economic zones of the other States.

8. Adjustment of the law of the sea was particularly necessary for the developing, geographically disadvantaged States. International social justice and equity demanded the recognition of the rights of such States to access to the living resources of the economic zones of the States of their region or subregion. Where States shared closed or semi-enclosed seas and narrow channels or passages, in the waters of which their fishermen had habitually fished, it was essential that a new régime for the seas should not deprive such States of their traditional rights of access to the living resources of those areas. To deprive them of such rights would clearly be a violation of the principles of international social justice and equity.

9. His delegation wished to remind the Conference of the peculiar geographic circumstances of the Caribbean region as a whole, and more particularly of the characteristics of semi-enclosed seas, such as the Gulf of Paria. That Gulf was an ecologically endemic region, and constituted an organic whole. Given the need for the preservation of the marine environment, the security of the area, and the rational exploration and exploitation of its living resources, it was imperative that the States concerned should seek together to ensure the proper use and protection of the Gulf in their mutual interest. Within the context of a new law of the sea, Trinidad and Tobago sought acceptance by the Conference of a special régime for small semi-enclosed seas, such as the Gulf of Paria.

10. His country supported the concept of the continental shelf, a principle enshrined in its own law and one of the fundamental principles of the existing law of the sea which must be retained in any new convention. However, the criteria for defining the outer limit of the shelf should be made more definite. Any new definition of the continental shelf, and the criteria for its delimitation, must be genuinely linked to the physical characteristics of the shelf itself.

11. As Trinidad and Tobago had repeatedly emphasized in the sea-bed Committee, there was an urgent need for the training of marine scientists from developing countries in all aspects of marine science and technology, so that they could participate effectively in the work of an international authority. His country had always given priority to marine scientific research and to the transfer of technology, and had always associated the transfer of technology and training with the establishment of oceanographic institutions on a regional basis in developing countries. In pursuit of that goal, Trinidad and Tobago, with the assistance of the United Nations Development Programme, was in the process of establishing on Nelson Island, off the north-west peninsula of Trinidad, a Marine Affairs Institute of an interdisciplinary nature, which it hoped would eventually serve the countries of the Caribbean and Latin America.

12. He wished to express his country's appreciation to Venezuela, a country with which Trinidad and Tobago had traditionally enjoyed the most cordial relations, for acting as host to the Conference.

13. Mr. KAZEMI (Iran) said that his delegation attached special importance to the Third Conference on the Law of the Sea, in the preparation of which it had participated to the best of its ability. The future of the oceans depended on the outcome of the Conference, which marked a decisive stage in the development of international law.

14. Although the sea-bed Committee had not been able to submit draft articles, it had provided an opportunity for its members to come to know each other better and to be better able to undertake the work of reconciling their often divergent interests. The common spirit which had emerged in the Committee augured well for the success of the Conference. The work of the Committee had in fact revealed a large area of agreement on two new ideas: the economic zone and the common heritage of mankind. The majority of States recognized the need to determine, beyond the territorial sea, a zone over the resources of which the coastal State exercised sovereign rights, yet no agreement had been reached as to the extent of such a zone. They had recognized, moreover, that the sea-bed and ocean floor beyond the limits of national jurisdiction should belong to the whole of mankind. The need to establish international regulations and machinery to govern that common heritage had been established in the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the General Assembly in 1970;[2] it was for the Conference to determine the conditions in which the heritage would be exploited.

15. The large area of agreement already reached gave rise to the hope that the Conference would be able to draw up rules of universal application for the establishment of a lasting order over the oceans in the interests of all States.

16. There seemed to be an increasing tendency to accept the limit of 12 miles for the territorial sea. His own country had fixed such a limit by the law of 12 April 1959. It must however be remembered that many States accepted that limit only subject to the recognition of an exclusive economic zone. Nevertheless, the 12-mile limit should not be interpreted in such a way as to exclude the possibility of bilateral or multilateral agreements in cases where special circumstances existed.

17. His delegation sympathized with the view of the archipelagic States that their territorial sea should be generally limited by rationally established baselines. However, beyond those lines, foreign vessels sailing in established corridors must be guaranteed the right of passage within those baselines.

18. Turning to the question of straits used for international navigation, he noted that two divergent, but valid, arguments had emerged: the first recognized that foreign vessels had the right to innocent passage, and the 1958 Geneva Convention[3] provided that there should be no interference in such passage;

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

[2] Resolution 2749 (XXV).

[3] Convention on the Territorial Sea and the Contiguous Zone (United Nations, *Treaty Series*, vol. 516, p. 206).

the second argument required freedom of passage and was motivated by the concern that the coastal States of the straits should not be able arbitrarily to make the passage of vessels from one part of the high seas to another conditional on subjective considerations. His delegation thought that, disregarding all qualifications, a satisfactory solution might be reached without denying the legal nature of the territorial sea. Rules could be devised which would guarantee freedom of passage for foreign vessels while taking account of such questions as the security of coastal States, the protection of the marine environment and the regulation of the passage of vessels through sea corridors.

19. There were also two approaches to the question of the exclusive economic zone: one envisaged a single régime for the whole of the zone; the other favoured a multiplicity of régimes, and there would thus be as many régimes as there were goals to be achieved in the zone. His country recognized the vital importance of the exclusive economic zone for the coastal States, but it thought that account must be taken of the fact that the natural wealth of the ocean and the high seas which was exploitable by existing technology was located largely above and below the continental margin. If all those resources were to be at the disposal only of the coastal States, too little of the wealth would come within the scope of the proposed International Sea-Bed Authority. Thus, a just solution must be found for the limits of the zone so as to enable the developing countries, particularly the land-locked ones, to enjoy the benefits of the exploitation of the resources.

20. Apart from questions of delimitation, the establishment of the economic zone raised a number of other problems: the continental shelf, the exclusive fishery zone, scientific research, the rights of land-locked States and the protection of the marine environment.

21. On the basis of the 1958 Convention[4] and of the special geographical and geological situation of the Persian Gulf, his country had already agreed on the delimitation of its continental shelf with several coastal States of the Gulf and it hoped to conclude similar agreements with the other coastal States. The provisions of the Geneva Convention had been generally observed in the existing agreements. His country's position on the possible revision of the criteria for the delimitation of the continental shelf remained flexible; it wished to avoid too great a discrimination among States. However, it considered the limits of the continental shelf established in the 1958 Convention to be an absolute minimum.

22. His delegation considered that the 12-mile limit, although suitable for establishing the extent of the territorial sea, was inadequate for guaranteeing the protection of the vital fishery interests of the coastal States. Fishing fleets were now able to come from distant regions and endanger the very survival of many species of fish and the incipient fishing industry of the developing countries. It must therefore be recognized that the coastal States had the right of jurisdiction over the waters adjacent to their coasts. Aware of the danger of the exhaustion or even extermination of certain species in its coastal waters and in order to protect its fishing industry, his Government had established, by the Proclamation of 30 October 1973, an exclusive fishery zone in the Persian Gulf and the Sea of Oman. The Proclamation was based on the historical rights of the inhabitants of the coasts of Iran, as established in the law of 12 April 1959 concerning the territorial sea, and on the importance of the natural resources of the sea for the economic and social development of the country. Two appropriate criteria had been used. In the Persian Gulf, the limits of the zone were those of the waters superjacent to the Iranian continental shelf (which in general did not exceed 50 miles); thus, where the shelf had been delimited by agreement with other States of the Gulf, the limits of the exclusive fishery zone corresponded to the outer limit of the continental shelf laid down in those agreements, and where such agreements had not yet been concluded, the zone was delimited by the median line equidistant from the baselines used to measure the extent of the territorial sea of the two States concerned. In the Sea of Oman, where the continental shelf ended abruptly a short distance from the coast, the criterion of 50 nautical miles had been adopted, as in the case of the exclusive fishery zones proclaimed by Pakistan and Oman. His country welcomed the proclamations made by Saudi Arabia and Qatar, which had adopted similar criteria. If the other coastal States of the Gulf were to take similar action, the living resources of the whole of the Gulf would be covered by the exclusive jurisdictions of the coastal States. It would be desirable to establish a regional fishing commission to ensure the rational use of the coastal waters of the countries of the region. The rights of the coastal States over the living resources of the coastal zone must be exclusive and not preferential. However, if a coastal State was unable to exploit the size of catch scientifically justifiable, it would be in its own interest to permit others to exploit the surplus on terms to be fixed by itself.

23. Turning to the question of scientific research in the zone subject to national jurisdiction, he said that his delegation considered that any scientific research must be undertaken with the consent of the coastal State and be compatible with that State's own research programmes. The scientific personnel of the coastal State must be allowed to participate in the research and the results must be made available first to the coastal State.

24. With regard to the question of the International Sea-Bed Authority provided for in the Declaration of Principles, the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, were the common heritage of mankind and were protected against any national appropriation. The powers of the International Authority should be as wide as possible. It should not only have the right to undertake directly the exploration and exploitation of the resources of the international zone but also be empowered to resolve all problems arising from such operations. It should make use of market studies to prevent any harmful consequences from the mining of minerals.

25. In order to preserve the marine environment, the Authority must have the right to regulate all exploration and exploitation. It must be empowered to control the research activities of States. He noted that it was sometimes difficult to distinguish between scientific research carried out for economic purposes, and other types of research. In co-operation with the International Hydrographic Bureau and the Intergovernmental Oceanographic Commission, the Authority should be responsible for co-ordinating all research activities and for ensuring the transfer of information and the latest technology to the developing countries. His delegation would welcome the establishment by the Authority of an institute responsible for keeping young research workers in the developing countries informed of the latest technology.

26. As to the structure of the Authority, his delegation felt that the supreme power must rest with a general assembly made up of representatives of all Member States. Machinery must be established to carry out technical, industrial and trade activities related to the exploitation of the international zone. In fact it would amount to the establishment of a real semi-commercial "Entreprise". The Authority might possibly grant exploitation licences to other entities.

27. Referring to the statement made by President Carlos Andrés Peréz, he wished to stress that the establishment of an International Authority with wide powers was a matter of great importance. In the meantime, the moratorium agreed upon by the General Assembly must be put into practice.

28. He noted that there were three groups of questions relating to the land-locked States: their participation in the exploitation of the sea-bed; their claims to the exclusive fishery zone; and their access to the sea.

[4] Convention on the Continental Shelf (*ibid.*, vol. 499, p. 312).

29. Resolution 2749 (XXV) recognized the right of land-locked countries to income from the exploitation of the sea-bed and provided that such revenue should be allocated primarily to the developing countries, coastal or land-locked, the latter being generally among those with the lowest *per capita* incomes. Accordingly, as envisaged in the declaration recently adopted at Kampala (A/CONF.62/23), the land-locked countries must be suitably represented in the various bodies of the International Authority.

30. His delegation thought that the claims of the land-locked States to the living resources of the exclusive fishery zone could be met only in the form of preferential rights within the framework of bilateral or regional agreements. In August 1973 his delegation had submitted a proposal to that effect in Sub-Committee II of the sea-bed Committee (A/9021 and Corr.1 and 3, vol. III, sect. 49).

31. The 1965 Convention on Transit Trade of Land-locked Countries[5] recognized that those countries should have free access to the sea, within the framework of bilateral agreements. Although his country could not be considered a transit State, it had accorded its land-locked neighbour transit facilities to the Persian Gulf and the Sea of Oman. Certain activities undertaken by his country had been largely justified by a desire to encourage such traffic. His country had always declared itself ready to grant any other necessary facilities. In all cases the principle of reciprocity of the right of transit must be observed. However, no State could grant privileges which might be construed as a sort of servitude prejudicial to its territorial sovereignty.

32. The very idea of a land-locked State was relative. A country could have a coast, yet its trade could be conducted mainly in a direction in which it did not have a coast. Would it not in that case be discriminatory against such a State to grant excessive privileges to totally land-locked States? Another question was to decide to which sea and on what terms the latter States should have access.

33. His delegation attached great importance to the protection of the marine environment and to the struggle against the pollution of the seas. He noted that the 1973 International Convention for the Prevention of Pollution from Ships defined the Persian Gulf and the Sea of Oman as a special zone requiring additional precautions for the protection of the marine environment. Until that Convention came into force, his country's internal regulations would be applied up to the limits of the superjacent waters of the continental shelf. But that was clearly not sufficient, for there were no limits to pollution. Accordingly, international and regional agreements took on a vital importance. His delegation hoped that the conference which was to have met at Kuwait would soon be able to begin its work.

34. The question remained: who was to define the criteria and lay down the standards in the struggle against the pollution caused in particular by oil tankers and other merchant vessels? His country had no firm position but it thought that such standards should preferably be laid down by an international authority so as to avoid multiplicity of regulations. The work could be undertaken by the Conference itself or by another international body. The Inter-Governmental Maritime Consultative Organization would be able to play an important role if the reforms proposed by some delegations were adopted.

35. Before concluding, he wished to comment on some questions of form. Would decisions to be taken by the Conference replace the relevant provisions of the Geneva Conventions? Would they be considered amendments to the Conventions or would they form a new Convention replacing in total or in part the 1958 Conventions? Some delegations envisaged the provisional entry into force of those decisions of the Conference which were of an urgent nature. His delegation thought that it would be difficult to accept that view, since the problems of the law of the sea were closely interrelated. Furthermore, such a move would run up against constitutional obstacles peculiar to each State.

36. Mr. LISTRE (Argentina) observed that the present law of the sea had developed in a world different from the present one. The traditional rules of the still recent past were aimed at preserving the interests of the great maritime Powers in a period when two thirds of the world was under colonial domination, and at consecrating the classic freedoms of the high seas so as to protect those interests. That system was part of an international political situation which had existed for centuries. However, the process of decolonization, launched with the achievement of political independence by the Latin American countries at the beginning of the 19th century, had begun a dialectic period in which colonized peoples fought to affirm their national identity and to assert themselves at an international level. Later, those peoples had realized that political independence without economic independence was inevitably an illusion. Then, in the mid-20th century, the independence of the peoples of Africa and Asia had transformed the political structure of the international community, and had given new impetus to the tendency, begun in Latin America, toward a more just and representative international order. Without justice, there could be no freedom, peace, security or law.

37. Third world countries were aware that traditional rules of international law in general, and of the law of the sea in particular, were ill-adapted to the modern world and did not fulfil their hopes for mankind. Political independence had not meant the disappearance of colonialism. On the contrary, new, subtler, and more sophisticated forms of domination, sheltered by the old law and pretending to advance civilization, were perpetuating it.

38. The development of science and technology, controlled by world centres of power as an instrument of hegemony, had widened the gap between poor and rich countries. Thus, the world was divided into satisfied countries, which possessed and squandered everything, and unsatisfied countries which suffered from under-development with all its irritations and injustices. That situation was unforgivably immoral, and constituted a grave danger to world peace. The new law of the sea must take it into account and contribute toward correcting it. That was why the Conference was being held.

39. Latin America had been an innovator in developing the bases of a new international law of the sea. Beginning with the unilateral declarations by various countries, including Argentina, in the 1940s and the Santiago Declaration of 1952, and continuing through the Montevideo and Lima Declarations of 1970 and the Declaration of Santo Domingo of 1972, among others, new concepts of the law of the sea had emerged which, because of their scientific seriousness and their spirit of justice, could not fail to be reflected in the rules which the Conference would adopt.

40. Not all the norms of the old law were anachronistic. Some retained their validity. What needed to be changed, basically, was the philosophy and the values of the legal order.

41. The new law of the sea must contribute to changing the present system of distributing world wealth and must allow the developing countries, at least in part, to narrow the gap separating them from the developed countries. His delegation therefore strongly favoured recognition by the Conference of the legal principles set forth in General Assembly resolution 2749 (XXV), which had stated that the sea-bed and ocean floor beyond the limits of national jurisdiction were the common heritage of mankind and that exploration of the area and exploitation of its resources should be carried out for the benefit of mankind as a whole, without distinctions between coastal and land-locked countries, and taking into particular consideration the interests and needs of the developing countries.

[5] United Nations, *Treaty Series*, vol. 597, p. 41.

42. Accordingly, his delegation would support the establishment of an international organ with broad powers to explore and exploit the sea-bed and to undertake related activities, in order to ensure attainment of the goals he had mentioned and to prevent them from being distorted through the actions of multinational firms, which, in many cases, were the tool of neo-colonialism.

43. His country favoured the drafting of an agreement acceptable to all States represented at the Conference. It should take into account the legitimate interests of all, but, he wished to emphasize, only the legitimate ones. The law established in Caracas should guarantee international social justice. Otherwise, there would be no universal law of the sea. If the possibilities of reaching a suitable agreement were exhausted, the developing countries would be free to find their own solutions.

44. His delegation believed that the Argentine draft presented in the sea-bed Committee in 1973 (*ibid.*, sect. 26) contained a prudent and balanced formula which took into account the principal interests at stake. Argentina proposed the establishment of an international norm which recognized a territorial sea of 12 miles with full sovereignty for the coastal State, subject only to innocent passage. That limitation on the territorial sea was acceptable only if an adjacent sea of 188 miles was recognized, in which the coastal State exercised sovereign rights for purposes of exploration and exploitation of resources, scientific research, and protection of the marine environment, the same sovereign rights which it already exercised over its submerged territory. His delegation was not concerned about whether that area was called "patrimonial sea", "economic zone", "adjacent zone", or another name. What it was concerned about was the substantive rights associated with the area. Those must include the freedoms of navigation, overflight and the laying of submarine cables and pipelines authorized by existing international law, freedoms which affected the entire international community. His delegation would accept no limitation not based on the strict exercise of the powers of the coastal State in the area.

45. The exclusive rights of the coastal State over exploration and exploitation of natural resources in its 200-mile zone was a direct consequence of its sovereignty over those resources. Thus, the coastal State was entitled to reserve such activities for itself or its nationals or to permit third parties to engage in them, in accordance with its legislation or with agreements which it entered. The coastal State would have the right to regulate and authorize scientific research, taking into account the need to promote and facilitate international co-operation in that field. Argentina particularly sought to guarantee effective participation by developing coastal countries in oceanographic research carried out in the marine areas under their jurisdiction, and the recognition of the right to obtain the results of research and to benefit from the transfer of technology.

46. His delegation believed that the coastal State had the authority and jurisdiction to prevent and control contamination of the marine environment, but its powers must be exercised in conformity with international norms worked out in organs which adequately represented the interests of the entire international community. That would prevent the legal insecurity resulting from the establishment of a mosaic of norms which, far from ensuring the desired goal of protecting ocean space, could have the negative effect of impinging seriously upon the freedoms of navigation and overflight.

47. It must not be forgotten that some States, by laying down requirements which only they were able to fulfil, could restrict, in a discriminatory fashion, at their own whim, access of the ships of developing countries to their coasts, thereby controlling and regulating international maritime traffic to the detriment of the merchant marine of the developing countries.

48. In sum, the jurisdiction of coastal States with regard to contamination must be exercised through the application of basic and uniform rules derived from international agreements. Likewise, the Conference must establish norms designed to preserve the marine environment as a whole, since the establishment of jurisdictional limits must not detract from the essential unity of ocean space.

49. The agreement reached at the Conference must include recognition of the sovereignty of States over their submerged territory.

50. More than 50 years before, two Argentinians, José León Suárez and Segundo R. Storni, had maintained that the sovereignty of States extended underwater, following the continental slope. In 1944, a year before the Proclamation of President Truman, the Argentine Government had issued a decree bringing the Argentine continental shelf under its jurisdiction as a mineral reserve area. In 1946 it had issued another decree extending its sovereignty to the continental shelf. In 1965, the Argentine Senate had adopted a draft law reaffirming exclusive sovereignty over the continental shelf, which was defined as the sea-bed and subsoil of the maritime areas adjacent to the coasts but situated outside the territorial sea, to a depth of 200 metres or, beyond that limit, to a point where the depth of the superjacent waters permitted the exploration and exploitation of the natural resources. Decree No. 17.094 of 1966 had incorporated that same principle into Argentine law. Those were some of the historical facts which showed Argentina's early interest in and continuing concern with the maintenance of its sovereignty over its continental shelf. The Argentine draft affirmed that the shelf, as the natural continuation of the territory underwater, extended to the outer lower edge of the continental margin which adjoined the abyssal plains.

51. His delegation was not unaware of the interests of other States which virtually lacked a continental shelf in the geological sense. It therefore proposed that in cases where the lower edge of the continental margin was at a distance of less than 200 miles from the coast, the State's exclusive sovereignty over the sea-bed and subsoil should extend to that distance. That formula combined the factors of geology and distance, and took into account the rights and interests of all coastal States.

52. Naturally, the régime of the continental shelf would not affect that of the superjacent waters, which would be governed by norms approved by the Conference and based on distance from the coast.

53. Argentina could accept no norm which ignored the rights it had acquired over its continental shelf. Nor would it recognize any provision in the Convention agreed upon by the Conference establishing rights over territories occupied by foreign Powers or subjected to colonial domination.

54. Argentina, because of its sense of international distributive justice, could not forget the land-locked countries, which must also enjoy the right of access to the sea. Without prejudice to their full right to participate in the benefits of exploration and exploitation of the international zone of the sea-bed, they should also participate in the exploitation of the renewable resources of the seas which fell within the jurisdiction of the coastal States of the region to which they belonged. That should be guaranteed through bilateral, regional or subregional agreements, which should be sufficiently clear and precise so as not to distort the rights which they recognized.

55. In addition to recognizing the aspirations of all land-locked States, his delegation had always harboured particular feelings of brotherhood towards Bolivia and Paraguay.

56. The majority of land-locked States were also underdeveloped countries, and principles of international justice could not benefit powerful countries while they were denied to developing countries. His country's interest in international recognition of a 200-mile zone was thus also aimed at benefiting land-locked countries, which would be entitled to benefit from the wealth of the zone.

57. The establishment of an adjacent zone of the sea was based mainly on the need to protect the developing world from

the exhaustion of international resources through intensive and irrational exploitation by the industrialized Powers. Thus, each region should find an adequate way of meeting the interests of the non-coastal countries, since the economic claims which Argentina had initiated and would consolidate in the future should benefit all countries of the region.

58. The wisdom and prudence with which the law of the sea was established would, to a large extent, affect the future of mankind.

59. Everyone was aware of the critical shortage of the resources of the earth, and their depletion by man. Resources extracted from the sea could make up for that shortage and contribute to ecological balance and to the development and happiness of peoples. As the President of Argentina had said, the time had come when all peoples and Governments of the world should become aware of man's suicidal march towards contamination of the environment and biosphere, exhaustion of natural resources, unchecked population growth and overevaluation of technology, and of the need to reverse those trends immediately through joint international action.

Mr. Evensen (Norway), Vice-President, took the Chair.

60. Mr. ABDEL HAMID (Egypt) said that the Conference was a historic event for the whole world but particularly for the peoples of the third world, since it enabled them, for the first time, to participate fully in the formulation of a new international legal order for the sea. The Conference was a turning-point in the history of the seas, which in the past had been abused by the great Powers, but were now seen as a source of economic prosperity and as the major channel of communication serving the cause of peace, friendship and understanding among all peoples.

61. Despite the difficulty of the task, his delegation was confident that the Conference would secure general agreement on a new international instrument. A new treaty on the law of the sea should command wide support from all countries so as to ensure its viability and universality. It would be futile for the Conference to produce a convention which was not generally accepted and subsequently not widely observed. The Conference ought to be truly universal: accordingly, his delegation supported the right of the liberation movements recognized by regional organizations to participate in it. In anticipation of the fulfilment of the aspirations of the liberation movements, the international community must enable them to become acquainted with the formulation of the new international law of the sea, in order to allow them to express their national interests and secure their future adherence to the new legal order. The heritage of Simón Bolívar would always be an inspiration to all liberation movements.

62. Any package deal agreed by the Conference must accommodate the legitimate interests of all nations at the international level rather than strike bargains at the individual level.

63. The sea-bed Committee had not completed its task, and much sober thinking and reflection was needed if progress was to be achieved. The Conference should follow a new approach and avoid a mere repetition of previous views.

64. His delegation was aware of the potentialities of the seas for non-peaceful uses and it had always contributed to international efforts directed against such uses. The limited steps already taken by the international community were in the right direction and should be supplemented.

65. His delegation also shared the widely accepted view that the sovereignty of the coastal State should extend beyond its land territory and internal waters over an adjacent belt of the sea to be determined by the Conference and measured from appropriate baselines. At present his country applied the 12-mile limit. Pending the conclusion of a new convention, the present limits of the territorial sea of States and their existing rights should not prejudice friendly relations among all peoples or be applied without regard to the special characteristics of each region. However, no region still under colonial, foreign or racial domination should be allowed to enjoy any rights or privileges under the law of the sea.

66. His country also recognized the right of the coastal State to exercise a certain jurisdiction over a contiguous zone with regard to national security, customs and fiscal control and sanitation and immigration regulations. Such jurisdiction derived from customary international law, and practice had proved its validity in speeding the passage of transit navigation while providing safeguards for the coastal States.

67. The development of the ideas of an exclusive economic zone and a patrimonial sea was a major contribution to the new law of the sea. The drawbacks inherent in the régime of the continental shelf as laid down in the Geneva Convention had been overcome. The combination of the criteria of depth and exploitability in the Geneva Convention had been harshly criticized and widely disregarded: the depth criterion depended on geographic features and led to great discrepancies, while the criterion of exploitability fluctuated according to technological progress and thus favoured the developed nations over the developing ones. Accordingly, everyone should recognize the right of coastal States to establish an exclusive economic zone beyond the territorial sea. Throughout the zone, States should exercise permanent sovereign rights over the exploration and exploitation of the natural resources of the sea-bed and the subsoil thereof and the superjacent waters, as well as other rights concerning the protection of the marine environment and conduct of scientific research. However, coastal States should manage the zone without undue interference in other legitimate uses of the sea and they should ensure that all activities within the economic zone be carried out exclusively for peaceful purposes.

68. Clearly, the advocates of the economic zone distinguished between the exclusive régime of sovereignty and a limited jurisdiction for specified purposes. Thus, they reconciled the need for developing countries to search for new resources and their determination to avoid hindrance of the traditional uses of the sea.

69. His country considered that the sea-bed beyond the limits of national jurisdiction and its resources constituted a common heritage of mankind. It supported the right of access to and from the sea by the land-locked countries and recognized that the land-locked and other disadvantaged countries were entitled to share in the exploitation of the living resources of neighbouring economic zones on an equal basis with coastal States, within the framework of regional or bilateral agreements.

70. Turning to the question of delineation, he said that in his delegation's view, where the coasts of the States were opposite or adjacent to each other, one valid method of delineation was the median line, every point of which was equidistant from the appropriate baselines of the two States. That should not exclude, however, the conclusion of bilateral or regional arrangements when special circumstances so warranted, but such arrangements should not affect the territorial integrity of the States concerned.

71. Everyone was aware that international straits were links between the world community as a whole, links fostering friendship, understanding and mutual benefits. It was in the common interest that the rules governing navigation through such straits should satisfy all legitimate concerns. However, the sovereignty of the coastal State and its responsibility for its own security must be respected through recognition of the national character of the territorial seas and the straits used for international navigation and forming part thereof. The proven régime of innocent passage should be the starting point for the development of the régime of passage through international straits. At the preparatory stage, various proposals had been made, notably that of the Soviet Union which provided for the application of the régime of innocent passage as well as respect for the legitimate concerns of the coastal State for its security. In addition, the proposals submitted by the Chinese delegation,

among others, reflected the view of the majority of developing countries, particularly those in Africa. Eight other countries had proposed a draft designed to establish a viable régime for passage through international straits. His delegation thought the draft deserved due attention and it expected that other major countries would take steps which might provide a basis for negotiation.

72. The exploration and exploitation of the resources of the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction should be carried out for the benefit of mankind as a whole, in accordance with the principle embodied in General Assembly resolution 2749 (XXV). It was in the interests of the whole international community to agree upon an equitable distribution of the resources of the seas and oceans, rather than allow the continuing exploitation of the developing nations by the developed nations. His delegation would never approach the issue from a purely national point of view but would always take account of the universal dimensions of the question. He therefore supported the creation of an international régime with the necessary economic and technical capacity for exploiting marine resources beyond national jurisdiction and distributing them equitably among all nations. The international machinery established under such a régime should have legal personality. Its principle organ should be an assembly with representatives of all States parties to the Convention, which would be a truly democratic organ and the chief repository of power. An executive council with limited membership would represent all geographical regions and all different interests on an equitable basis. Each member State would have one vote. Operations relating to the exploration and exploitation of resources of the area beyond national jurisdiction would be carried out by a competent body under the direct and effective control of the assembly.

73. Turning to the question of marine pollution, he said that in exploiting marine resources, a balance should be maintained between individual and general needs for non-renewable resources; excessive mining of such resources would lead to many local problems which might well have international implications for aquatic life, fish resources and natural phenomena such as self-purification processes. Careful forecasts of potential pollution problems should be made. For example, marine radio-active resources should be explored, for any radio-active pollution in the marine environment would have harmful effects on man for many generations. Much damage had already been done to the seas and oceans through dumping wastes, and no more pollution could be tolerated. He was opposed to any discussion of such issues as an equitable balance of pollution.

74. Two recent international conventions on pollution, the 1972 London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter,[6] and the 1973 Convention on the Prevention of Pollution from Ships, used the term "jurisdiction" in determining the rights and duties of parties to the Conventions. The Conference on the Law of the Sea would deal with the definition and clarification of the term "jurisdiction" as a major matter. Due regard should also be given to existing regional agreements such as those adopted by the League of Arab States in 1973 and by the Organization of African Unity in 1974. The existing conventions on marine pollution did not deal with the exploration and exploitation of sea-bed resources, and the 1973 Convention on pollution even excluded some cases of the release of harmful substances. He urged the Conference to fill the gaps in the existing conventions, particularly gaps relating to damage resulting from sea-bed exploration and exploitation. Existing international rules on liability considered wrongful acts and negligence as the sole basis for liability and he offered to assist in redefining the basis for liability originating from actual damage, irrespective of the causes.

[6] A/AC.138/SC.III/L.29.

75. In connexion with the role of scientific research in the marine environment, he supported all fundamental and applied research for peaceful ends. Scientific research was essential for long-term policies on the utilization of marine mineral resources. Land-based mineral resources were already becoming depleted and the seas provided the main source for meeting a growing world mineral consumption. Co-operation in scientific research and the transfer of technology were essential to provide access to energy and fuel resources and to develop new tools for recovering marine minerals. While scientific research in the marine environment was the right of all nations regardless of their geographical situation, the consent of coastal States was needed for research in waters under national jurisdiction. Research in international waters would be governed by some competent international machinery.

76. He suggested that the Declaration recently adopted at the summit conference of African States in Mogadiscio (A/CONF.62/33) should be considered by the Conference.

77. Mr. LIDBOM (Sweden) said that it was essential for the Conference to put an end to the present anarchy and to establish norms for the exploration and exploitation of marine resources as soon as possible. Although the interests of participating States differed, it was in the interests of all to have a complete and effective international law governing the exploitation of ocean space and resources for the benefit of all mankind.

78. His delegation, while taking account of its legitimate national interests, would approach the problems facing the Conference in a spirit of international solidarity, placing particular emphasis on the need to preserve the common heritage of the resources of the sea and the sea-bed, the urgent need for a more equitable distribution between highly industrialized and developing countries, and also the problem of inequalities between coastal and land-locked countries.

79. With regard to the question of the breadth of the territorial sea, his Government supported the 12-mile limit. It was essential to reach general agreement on the maximum breadth, for continuing uncertainty could lead to serious international disagreements.

80. A problem closely related to that of the breadth of the territorial sea was the question of the right of transit through the territorial sea and the right of transit through straits in the territorial sea used for international navigation. It had been suggested that the rules on innocent passage should be amended to include rules on freedom of transit. It was true that the current rules did not clearly define what constituted innocent passage, but he did not feel that introducing a provision on freedom of transit would rectify the situation. He suggested that the concept of freedom of transit should be complemented by provisions safeguarding the legitimate interests of States bordering international straits. Also, in principle, the scope of any new regulations governing the right of transit through international straits, of the kind envisaged, should be confined to the fairly wide straits which now formed part of the high seas.

81. Turning to the question of fisheries, he said that the increasing scarcity of living resources of the sea had strengthened the trend among coastal States to extend their territorial sea or to establish fishing zones reserved for their own fisheries beyond their territorial sea. The Conference must first of all determine the best means of managing and conserving living marine resources. He believed that regional organizations of fisheries in which member States would co-operate to conserve fish resources would be the best approach to the problem. Several such organizations already existed, but they had rightly been criticized for never reaching agreement on large-scale measures or for not applying such measures until too late. The terms of reference of such organizations should be extended, and care should be taken to ensure that they operated efficiently. In theory, all States with fisheries should be mem-

bers of the organization in their region, which would assume responsibility for fishing in the region, with power to approve measures to conserve and exploit fish resources, which should be applicable beyond national fishing boundaries. For those organizations to be effective, they should take decisions by a majority vote rather than unanimously on certain questions, and States should be entitled to visit fishing vessels on the high seas in order to ensure that the regional regulations were being applied. The problem of over-fishing and exhaustion of fish resources was a very serious one, and he urged all States to abandon their strictly national short-term interests so that the Conference would be able to find a solution to the problem.

82. Another major aspect of the fisheries question was the distribution of the living resources of the seas. Although the fishing capacity of the developing countries was much lower than that of the industrialized countries and they had difficulty in defending their interests, there were some industrialized countries whose economy depended so heavily on fishing that they should perhaps be given special rights in order to safeguard their legitimate interests. Developing countries and the kind of industrialized country he was referring to should be given preferential rights beyond the 12-mile limit under a quota system or other provisions established by the competent international fisheries commission. If that suggestion was not acceptable, his Government would be willing to grant exclusive rights in large zones to coastal States, provided those rights were restricted to developing countries and industrialized countries to whose economy fishing was absolutely essential. There was no reason to change the current fishing regulations for most industrialized countries. The provisions adopted should not be prejudicial to land-locked countries or geographically disadvantaged countries; such States should be entitled to fish in certain zones of the neighbouring coastal States, and guarantees should be provided that those rights would be respected. It was only if coastal States were willing to grant such rights that they would gain support for special fishing rights beyond the limit of their territorial sea.

83. Turning to the question of the resources of the sea-bed and ocean floor, he said that the first question to be decided should be the delineation between national areas and the international zone which had been declared the "common heritage of mankind" by the General Assembly. It should be borne in mind that any extension of the jurisdiction of coastal States would be at the expense of the international zone and thus of the land-locked or geographically disadvantaged countries. The international zone should be as large as possible and should be administered by an international authority with extensive powers in which developing and small countries would have considerable influence. That could lead to a more equitable distribution of resources and satisfy the interests of land-locked developing countries which often were the least developed. In establishing an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction, the Conference would be creating rules of law in a field which had not yet been covered in any international legal system, and if the General Assembly's decision on the internationalization of the sea-bed was to be implemented, the question should be approached with energy, realism and goodwill. He believed that the Declaration of Principles adopted by the General Assembly in 1970, which provided a basis for the work of the Conference, could be included as it stood in the Convention, even though it was not completely satisfactory from every legal and technical viewpoint. Those principles, particularly that establishing the zone of the "common heritage of mankind" and reserving it exclusively for peaceful purposes, had been accepted by an overwhelming majority at the General Assembly.

84. The Declaration of Principles was not complete, however, and did not provide any guidance on who should exploit the resources of the zone. Some had suggested that exploitation should be carried on directly by the proposed international Sea-Bed Authority or, if the Authority so decided, under contract or in co-operation with States or companies, while others had felt that exploration and exploitation should be carried on by States or individuals. His Government believed that the Authority should grant permits for the exploration and exploitation of the resources of the international zone, but that it should also be able to engage in exploration and exploitation directly in co-operation with States or individuals. A flexible solution giving the Authority extensive powers would mean that the best technological and financial approach could be made to each project, thus providing optimum economic advantages for the benefit of all mankind. His delegation attached considerable importance to the question of the distribution of the benefits derived from the zone and its resources. Particular account should be taken of the interests of the developing countries and of the need to find some means of reducing to a minimum the effect of exploitation on the situation of developing countries which produced raw materials. That was a question that should be dealt with by the Authority itself, which should be given as much independence as possible to manage its own affairs. The convention should merely provide general guidelines.

85. His delegation had already had occasion to give its views on the structure of the proposed Authority. The principle organ of the Authority should be an assembly in which all member States would be represented; any body with limited membership should be so constituted that the developing countries and least powerful industrialized countries would have real influence. The Authority, whose relationship with the United Nations should be regulated in a special agreement, should be required under the Convention to report to the United Nations General Assembly, although the latter should not interfere in matters relating to the activities of the Authority. Linking the Authority to the United Nations should help it to carry out its mandate.

86. Conservation of the marine environment was another important question which must be dealt with by the Conference. Pollution of the seas, particularly by oil and chemical products, had increased considerably of late. In that connexion he recalled the Declaration of the United Nations Conference on the Human Environment of 1972[7] which called on States to prevent marine pollution and to establish a convention on the conservation of the marine environment. It had proven difficult to prepare such a convention as so many conflicting interests were involved, and in the preparatory work disagreements had arisen between coastal States and States with large marines. His Government was willing to do all in its power to help resolve such difficulties so that a convention accepted by all States could be adopted.

87. The decisions the Conference would take would be of vital importance for many States and many peoples. They must take account of the needs of the world as a whole and the legitimate interests of individual States, and they must be accepted by a large majority. The fact that most States had a coast did not mean that they should establish rules prejudicial to the minority interests. Compromise and concessions were essential if the international régime was to be effective and lasting.

The meeting rose at 1.05 p.m.

[7] See *Report of the United Nations Conference on the Human Environment* (United Nations publication, Sales No. E.73.II.A.14), chap. I.