

# **Third United Nations Conference on the Law of the Sea**

1973-1982

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## **Summary Records of Plenary Meetings 26<sup>th</sup> plenary meeting**

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ternational area. The resources of the international area were not yet precisely known and it would be some time before its potentialities could be made actual. The international community must continue to strive for economic and social justice by focusing attention on the terms of trade, with more equitable returns for the developing countries from the raw materials they exported. International development co-operation must also continue, and his country was reappraising its development aid concepts, having particularly in mind the need for transfer of marine technology.

107. His country had made a constructive contribution in the sea-bed Committee and to the preparatory work for the Conference. It intended to pursue that constructive approach in the substantive session; its motivation would be partly to pursue its own national interests but it would also have in mind the interests of its friends and neighbours in the Pacific area and South-East Asia. Indeed, his country was aware of the need of the peoples of all continents to achieve a lasting convention, if possible universally signed and ratified, which would bring not only order and certainty but also justice and equity into the law of the sea. Only then could the world hope to avoid the unsettled disputes which held the seeds of disastrous international conflict. The Conference must lift mankind to new levels of co-operation. In the past there had been no general agreement on an international law adequate to ensure the maintenance of

peace and security in the seas of the world. The Conference must not let history repeat itself; it must make history.

108. Mr. ROMANOV (Union of Soviet Socialist Republics) noted that the Conference had solved its procedural problems in a constructive manner and that the overwhelming majority of delegations were conducting the business of the Conference in a spirit of mutual understanding. However, the statement of one delegation had been out of keeping with that spirit. Many delegations agreed with his own that the statement in question had been characterized by demagoguery, political trickery, the distortion of facts and slander. It had had nothing to do with the problems of the law of the sea and had contained nothing new or constructive. The real purpose of the statement had been to sow the seeds of discord among the participants in the Conference and to turn it into a forum for the delivery of statements permeated by the attitudes of the cold war. If the Conference was to conduct its work normally it must be protected against the introduction of such procedures. The attitude of his own delegation did not need to be defended. It urged that the work of the Conference should be conducted in a spirit of mutual understanding and conciliation.

109. The PRESIDENT appealed to all delegations to help the work of the Conference by maintaining a proper degree of decorum in their statements and avoiding any derogatory references.

*The meeting rose at 1.36 p.m.*

## 26th meeting

Tuesday, 2 July 1974, at 3.40 p.m.

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

### General statements (*continued*)

1. Mr. ENGO (United Republic of Cameroon) wished to extend to the President and all members of the Conference the warmest greetings of the head of the United Republic of Cameroon, President Ahidjo, and to thank the Venezuelan people for its very warm welcome. He was gratified it was in Caracas, the capital of a developing country, that the Conference was embarking on the many tasks facing the countries of the third world, which comprised most of the world's population.

2. It was regrettable that at a conference which should work out arrangements for the administration of the common heritage of all mankind, a large number of peoples were not represented. In Africa alone the meanest of racist fascist régimes continued to defy United Nations principles by refusing to accord the freedoms that would have made their presence here possible. Thus, the peace-loving peoples of South Africa, Namibia, Zimbabwe, Angola, Mozambique, among others, are deprived of participation. Yet, he emphasized, the representatives of the racist political brigands who oppressed these peoples seek to sit at this Conference. The Conference should not be burdened by their presence. The argument that such régimes represented only a very small minority was not valid. They had many allies at the Conference who were giving them considerable material and moral support.

3. He also regretted the absence of the legitimate representatives of the peace-loving people of Cambodia and deplored the fact that the atmosphere of distrust and bitterness prevailing in the Middle East had prevented the people of Palestine, whose tragic fate could have been the subject of an important debate at the Conference, from being represented.

4. The Conference was faced with the formidable task of building a new world and of establishing between States co-operation which should ensure that the forces of peace would prevail over those of war. Respect for the Charter of the United Nations was the surest guarantee of the success of that task.

5. That would imply that the Conference should not limit itself to the recognition of the inherent rights of all countries, rich and poor, but that it should take effective steps to ensure that they were all privy to the important decisions that would be taken. It would be dangerous to take such decisions on the assumption that the problems and interests of those not represented at the Conference did not differ from those of the participants. The course of history was unpredictable and the process of the rise and fall of nations and their peoples was a silent one. Those that were powerful today might be condemned to disappearance and even oblivion. No one could tell what today's oppressed peoples would be tomorrow; military and economic power might not be the eternal privilege of any one people. Historians would not blame them if, later on, they rejected the results the Conference might reach.

6. The Conference should therefore be fully aware of the importance of the problems it was dealing with. It must not fail because it could not afford to fail. If the convention it produced benefited a privileged class, the convention might be very short-lived. For that reason it was important, on the one hand, to organize the common heritage of ocean space in such a way that it would safeguard all people without exception against poverty, starvation, disease and periodic natural disasters and, on the other hand, that the wealth of the resources would not sustain exorbitant explorations in space, wasteful ventures in armaments and the pursuit of illusory power at the expense of peace.

7. The Conference must therefore heed the serious threat to all humanity of an uncontrolled rate of advance in science and technology. Progress must continue to serve man, not dominate him.

8. For that reason it was important that the participants at the Conference should face contemporary realities in the broader context of the realities of history as a whole. The truth was that the generation of today was sustained by a curious kind of interdependence. The ocean spaces could enable it to bring order into international life and to build new forms of co-operation for peace. One could continue to defend special interests based on a short-sighted perspective of things to come or regard the totality of problems and interests as pertaining to mankind as a whole. That was the choice which lay before the Conference.

9. The heads of African States had already given a lead in the latter direction. Countries with very diverse cultures and geographical conditions were united in a close solidarity based on the oneness of the human family. They had stated that the resources of ocean space should benefit all mankind and had taken effective measures to that end. Not only had they proclaimed the principle of unconditional free access to the sea, but they had decided that land-locked and other disadvantaged countries should participate in the exploitation of the living resources of adjacent economic zones on the same footing as coastal States.

10. By so doing they were complying with the highest aspirations of the United Nations Charter. It was not too much to ask the Conference to make the ideals of the Charter its basic aim for ocean space.

11. The Conference was faced with a difficult task. The need for a new convention on the law of the sea was clearly overdue. Now that all the problems and interests had been brought together and a procedure guaranteeing a balance between the big and rich nations, which were in a minority, and the poor and small countries, which were in a majority, had been established, the Conference should work out a realistic document.

12. His country was ready to take an active part in the negotiations. First, with regard to the method of work, it would stress the need for close co-operation between the three Main Committees on the one hand, and between the Committees and the Plenary of the Conference on the other. It was important that the work of one Committee should not be impeded by the fact that the items it would be dealing with were closely related to those before the two other Committees. The Conference had decided that the convention should be adopted as a whole. Consequently there would be no danger that the work of one Committee would prejudice the work of the others.

13. The second point his delegation wished to make concerned a matter of substance—his delegation considered that the delimitation of the various zones and the régimes applicable to each of them was not a problem of mathematical logic, but one entailing a political decision which must be taken without any delay. If agreement on the régime to be applied could be reached quickly, the work of the Conference would be considerably advanced.

14. There were two aspects to the problem of the territorial sea. In the first place agreement must be reached on the question of limits, and secondly, with regard to the question of straits used for international navigation, it would be necessary to know in what cases they fell within the national jurisdiction of coastal States, having regard to the breadth of the territorial sea. He thought that the delegations directly concerned should enter into consultations on that question. It would seem that security problems and the protection of sovereignty could be effectively negotiated only by those directly concerned.

15. With regard to the economic zone, negotiations should be on a realistic basis and the interests of coastal States should be

borne in mind. It was essential to know whether the concept of common heritage applied to the economic zone as well as to its resources or whether it applied to the zone alone, coastal States retaining sovereign rights over those resources. His delegation supported the second alternative. Here too the decision could be only a political one. It would be a pure waste of time to attempt to negotiate on the basis of so-called existing law. The Conference was meeting to adopt a new universal régime which would probably be revolutionary and the need for which was imposed by the volume of newly acquired scientific and technological knowledge.

16. The land-locked nations asked for access to the sea. In spite of the absence of a universal convention, the African nations had in practice granted them that right. His delegation endorsed the view that land-locked States should be given some rights in the economic zone of the adjoining waters of the coastal States. The Declaration of the Organization of African Unity (A/CONF.62/33) had formalized that right by extending it to the exploration of the living resources. He urged that the convention should apply the right universally. A decision of that kind should of course be taken in its proper perspective. In Africa it was on the basis of a recognized solidarity and unity. It was to be hoped that the Conference would adopt the same principle of solidarity. His delegation urged the land-locked States and other so-called disadvantaged countries not to complicate negotiations by basing their claims on so-called existing legal rights to share the resources of the zone equally with the coastal States.

17. The important thing was to ease the extra burden of the poorer States which had no access to the sea. But it must be understood that a State was not necessarily impoverished merely because of its geographical location. States were disadvantaged if they could not take part in the development of activities in ocean space because of lack of natural access to it. However, the classification into countries which were or were not land-locked was sometimes an unreal one. The natural resources of some land-locked countries were in fact greater than the aggregate of land- and sea-based resources of some coastal States. It could not, for instance, be seriously claimed that there was a profound community of interests between the land-locked States of Europe, which had an effective infrastructure of railways, road systems and air services, and the African land-locked States, for which, lacking such infrastructure, access to the sea was a practical problem even where the neighbouring coastal State had granted it. Therefore, it was essential to avoid discussions and negotiations based on unrealistic criteria and misleading nomenclature. It would seem that, in view of the principle of the sovereignty of States, the problems of land-locked States could be resolved on a regional basis and that the question of access to the sea could best be worked out by the countries directly concerned. The sharing of benefits within the economic zones should also in practice rest on the principle of regional solidarity. It must not be forgotten that some land-locked States were far more "advantaged" with their tremendous reservoir of land-based resources than coastal States.

18. The issue to be negotiated at the Conference was the exercise of the rights and duties of each State in the so-called economic zone. It should rule out the right it was proposed to grant to foreign States outside a given region to share in the exploitation of the resources within it. Such a proposal was not acceptable. Participation in such activities must be left to special bilateral arrangements, as was the practice with those in the territorial seas. The notion of exclusivity of rights within the economic zone should be endorsed at least on a regional basis, and the modalities of its content must be left to the region to work out.

19. The question of the so-called high seas or international zone called for important political decisions by all States. His delegation made a strong appeal to all concerned to continue to

observe the principles of non-appropriation and the peaceful use of resources which had already been adopted.

20. There could no longer be any question of leaving the management of the heritage of mankind to the benevolence of a single State or group of States. Development at international and national levels could no longer depend on the existing system of aid, grants and the like. The new international community was a child of a union between rapidly developing technology and revolutionary thinking. New and effective international institutions should be created to provide independent financial reserves and to give sustenance to its growth.

21. The participants in the Conference had not met to share plunder, they had met to organize the deployment of the benefits of the common heritage for the well-being of mankind as a whole.

22. The technological development of developing countries was therefore essential. The greatest benefits would emerge from training and participation programmes in exploration and exploitation activities. No nation should be able to invoke its limited resources as a ground for failing to aid the developing countries.

23. If lasting peace was to be attained, all nations must be able to meet their basic needs themselves. A forum must be created to ensure international co-operation to meet others.

24. His delegation appealed first to the developed countries to set the tone for the Conference by showing their benevolence and understanding in the interest of peace. It called on the United States, a nation born in revolution, whose Constitution declared that all men were equal. The industrial countries should make the basic sacrifices needed to build the new world which their great leaders had sought. It appealed also to the Soviet Union, a nation born of a great revolution in the current century. It asked that declared champion of the less developed peoples of the world also to champion the growth of the conditions of peace which would ensure for always that young nations could participate in the fulness of international life. Equally it called on the United Kingdom and France, both countries which had rejected inequality and had played a major role in the development of the world, to give leadership in promoting the same ideals for which the Commonwealth and the Community respectively stood. It appealed to those great technological and economic Powers of the century, China, Japan and Germany to place their experience at the service of the new international community to be built. It called on all those who by their patience and their diplomacy could contribute to the success of that Conference. Lastly, it called on the fraternal peoples of the third world not to yield to the temptation to turn the tables for their own advantage. They must refuse henceforth to submit to those who claimed the privileges of domination, but they must not copy their follies and let their own collective power go to their heads. The objective should be to participate fully in the progress of mankind and not to try to bring about the downfall of other nations. His delegation therefore appealed to those countries to show the same sense of understanding that was asked of the developed nations. It was the duty of the latter to sacrifice some of the unbalanced powers they possessed, in order that the Conference might respond to the hopes which had been aroused and a realistic convention satisfactory to all would emerge.

25. Mr. SONG (Republic of Korea) stated that the Conference was faced with a crucial choice for the future of mankind between a world of chaos, characterized by waste and competition, and a world of co-operation, in which all nations would pool their ingenuity and their resources for the greater good of all mankind.

26. To bring about the second alternative, a new and viable international order designed to meet the interests of all countries, whether small or large, developing or developed, coastal or land-locked, would have to be established.

27. The Declaration of Principles adopted by the General Assembly of the United Nations on 17 December 1970,<sup>1</sup> recognizing that the sea-bed and the resources of its subsoil beyond the limits of national jurisdiction constituted the common heritage of mankind, was significant in that regard. It was hoped that if the spirit of co-operation previously demonstrated was sustained, the Conference would be successful. If, on the other hand, each country intended to pursue its own interests only, the oceans would become an arena of unrestrained competition and conflicting jurisdictional claims, in which all nations would be losers. The Republic of Korea, which as a coastal State had obvious maritime interests, was no less ready to take into account the aspirations of the other developing countries and to make every effort so that the negotiations might succeed in establishing a viable and truly equitable international order.

28. It was widely recognized that the present régime of territorial waters was no longer adequate to meet the exigencies of modern technology. The 12-mile limit met the approval of the majority of the countries and the delegation of the Republic of Korea hoped that it would be widely accepted.

29. Speaking of the exclusive economic zone, he judged that the particular interests of the coastal States over the natural resources in the areas adjacent to their territorial waters should be safeguarded. He agreed completely with the principle of establishing an exclusive economic zone extending to 200 miles. In that connexion the nature and the scope of the authority to be exercised by the coastal States should no doubt be more precisely defined. It was particularly important to guarantee the freedom of navigation and overflight, as well as the possibility of laying submarine cables and pipelines.

30. With regard to fisheries, the fishing grounds from which the Republic of Korea derived the bulk of its food resources were a long way from its coasts. Nevertheless, the Republic of Korea was in agreement with the principle of the economic zone, because it was convinced that ocean resources were not inexhaustible, and that overfishing represented a great risk for mankind. One could not help noting, however, that the living resources of the oceans were not equally distributed and that only a limited number of countries enjoyed the world's rich fishing grounds. Consequently, it was necessary to consider seriously the idea already put forward several times according to which the coastal States would be authorized to reserve for their citizens only that portion of the resources which they were actually capable of using, while other States should have access to the remaining portion of those resources.

31. Concerning the continental shelf, there was at present no doubt that the coastal States had sovereign rights over the natural extension of their territory.

32. However, the provisions in the first article of the 1958 Convention on the Continental Shelf<sup>2</sup> left the door open to demands for the extension of the area called the continental shelf and took away practically all the legal significance of the concept of the continental shelf. If that trend were to continue the whole sea-bed would eventually be divided among the coastal States, in total disregard of the concept of the common heritage of mankind and in obvious contradiction of the Declaration of Principles. It was therefore necessary to seek a general consensus among nations regarding the delimitation of national jurisdiction and the zone constituting the common heritage, since one could no longer expect to settle that question on the basis of the 1958 Convention. His delegation believed that the coastal States should exercise their jurisdiction up to the edge of the continental margin. The sovereign rights which any States had already acquired in the realm of exploration and exploitation of the natural resources of any area of the sea-bed and subsoil should not be affected.

<sup>1</sup> Resolution 2749 (XXV).

<sup>2</sup> United Nations, *Treaty Series*, vol. 499, p. 312.

33. With regard to the international régime and the machinery which would be set up to apply it, a certain number of proposals had already been presented in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, which had prepared several texts embodying the various alternatives. It appeared that a consensus was emerging concerning such fundamental concepts as the common heritage and the equitable sharing of resources, but as far as the powers, functions and structure of the machinery were concerned, the various viewpoints were still far apart. The delegation of the Republic of Korea felt that the international machinery should be vested with comprehensive powers with respect to exploitation and exploration activities. The principle of equitable geographic distribution should be applied to the composition of the machinery, and the procedure of decision-making should be based on the principle of the sovereign equality of all nations. He wished to emphasize that the problems of ocean space were closely interrelated and should be considered as a whole. The essential goal of a world ocean régime was to ensure that the vast resources of the sea would not be squandered away, but would benefit the entire international community. Only a spirit of co-operation based upon the principle of sovereign equality and reciprocity would enable the Conference to reach its goal.

34. He regretted having to answer the allegations of the delegation of North Korea at the 22nd meeting on the subject of the fisheries agreement of 1965 between the Republic of Korea and Japan. Far from one-sidedly favouring the latter, that agreement recognized that Korea had an exclusive fishing zone much larger than that which had been previously acknowledged. Furthermore, partly because of fisheries co-operation embodied in the agreement, Korea's fishing production had trebled, thus enabling Korea to rank among the 10 foremost fishing nations of the world. Such facts should suffice to refute the statements of the representative of North Korea.

35. With regard to the continental shelf pact to which the representative of North Korea had alluded, that pact was based on the provisions of article 6 of the 1958 Convention on the Continental Shelf.

36. Finally, he would point out that the presence of American forces in Korea should be put in its historical perspective. If, as the representative of North Korea wrongly maintained, the presence of American troops in the Republic of Korea was a sin, the blame for that must be laid to the past and present policies of the North Korean régime towards the Republic of Korea.

37. South Korea was not the only country to have foreign troops on its soil. It was not surprising that the North Korean régime had found it necessary to conclude military alliances with its neighbours. He wondered, however, why that régime failed to mention the alliances it had concluded with Powers foreign to the region.

38. The division of Korea was a tragic wound inflicted upon the country at the end of the Second World War, a wound which the North Koreans, though brothers of the South Koreans, took every opportunity to reopen. It was to be hoped that such fratricidal disputes which could endanger the spirit of peace and co-operation prevailing at the Conference would not be renewed, so that the results which everyone hoped for might be achieved.

39. Mr. NYAMDO (Mongolia) thanked the Government and the people of Venezuela for their work in organizing the Conference and for the warm welcome given to the participants.

40. The Third United Nations Conference on the Law of the Sea was taking place in a more favourable climate of international détente which would no doubt contribute to its success. Its importance lay not so much in the number of participants or problems under examination, but in the inherent importance of the ocean space itself.

41. The problems relating to the law of the sea concerned all States without exception and it was therefore natural for all States to participate in the Conference. In that regard the Mongolian delegation judged that the Provisional Revolutionary Government of the Republic of South Viet-Nam was fully entitled to take part in the work of the Conference on an equal footing with the Governments of other States.

42. It should be noted at the outset that the Conference was dealing with truly complex problems which were closely interrelated, and it was practically impossible to resolve them separately. The Mongolian delegation believed that the most realistic method was to seek an over-all solution through concession and compromise, equitably taking into account the interests of all States.

43. The question of the width of the territorial sea was certainly of special importance and its solution would make it possible to settle a number of related issues. At the present time the overwhelming majority of coastal States had fixed the width of their territorial sea at 12 miles. That limit was also recognized by a majority of land-locked States, including Mongolia, and it had been advocated by such bodies as the International Court of Justice and the International Law Commission. Thus, theory as well as practice confirmed the existence of a rule of international law setting a 12-mile limit for the territorial sea and, in the eyes of the Mongolian delegation, that limit conformed with the interests of the coastal as well as the land-locked States. That rule should therefore be embodied in a suitable international instrument.

44. In view of the needs of developing coastal States, whose economy was closely linked to the resources of the area of the high seas adjacent to their territorial waters, his delegation, like many others, thought it would be appropriate to grant such countries the right to establish an exclusive economic zone 200 nautical miles in width.

45. Concerning straits used for international navigation, the principle of free passage for all shipping should be maintained. Such straits played an important role in the development of economic co-operation, and that principle ensured the continuity of maritime traffic.

46. Mongolia was faced with additional difficulties in its economic and commercial development owing to the fact that it was land-locked. For that reason it had a particular interest in problems concerning the rights and interests of land-locked countries. The right of such countries to free access to the sea was one of the basic principles of the law of the sea, and constituted an integral part of the principles of modern international law. It derived from the basic principle of the freedom of the high seas. Land-locked countries, like others, had the right to enjoy all the advantages offered by the high seas. That right had been documented in various instruments, such as the Barcelona Declaration of 1921, the Geneva Convention on the High Seas of 1958 and the New York Convention on Transit Trade of Land-locked States of 1965.

47. In formulating a new convention on the law of the sea, it would no doubt be necessary to continue to develop the existing general principles on the rights of land-locked countries and to supplement them by adding new provisions. His delegation thought that the sea-bed and its subsoil beyond the continental shelf could be used for exclusively peaceful purposes by all States without discrimination, irrespective of their geographical situation. The convention should confirm the rights of land-locked countries to free access to the sea-bed and its subsoil and to the development of their resources. His delegation favoured the setting up of an international sea-bed authority, on condition that the small governing body should include representatives of all groups of States and especially of land-locked countries, and that that body should take decisions on questions of substance by consensus. There was no doubt that, in formulating the special régime for the proposed economic zone, due account would be taken of the rights and

interests of land-locked States and of States which were geographically disadvantaged.

48. In 1973 the sea-bed Committee had had before it draft rules on the land-locked countries submitted by Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia (A/9021 and Corr.1 and 3, vol. II, p. 16). His delegation unreservedly endorsed that document and hoped that it would be included in a convention on the law of the sea.

49. It was always ready to co-operate with other delegations in completing the task entrusted to the Conference by the General Assembly. The beginning of the current session showed that the most complex questions could be decided by general agreement. It was to be hoped that the Conference would lead to the adoption of a convention by consensus.

50. Mr. VRATUSA (Yugoslavia) said that in view of the universal character and extreme importance of the issues being considered at the Conference, his delegation regretted the absence of representatives of the Democratic Republic of Viet-Nam and of the Provisional Revolutionary Government of the Republic of South Viet-Nam, and also of the Royal Government of National Union of Cambodia and national liberation movements.

51. It was stimulating that the Conference was taking place immediately after the special session of the United Nations General Assembly on raw materials and development, because the problems it was considering were closely related to those of development and to the status of developing countries in the world economic system. President Tito had stressed that point recently and had stated that the special session had opened the way for the establishment of a new and more equitable system of international economic relations. The special session had confirmed and reaffirmed the inalienable right of all States to full permanent sovereignty over their natural resources. In the opinion of his delegation, that principle should be the starting-point for the drafting of a new international law of the sea.

52. The preparatory work and the Conference itself were part of an essential reshaping of international law, which reflected the deep structural changes that were taking place in the contemporary world. The time had passed when problems of raw materials and access to natural resources were resolved by force and war, and a new era was beginning in which conflicts would be settled by peaceful means. Consequently, the concepts of interdependence, peace, security, development, decolonization and the participation of the developing countries in international affairs on a non-discriminatory basis should be the starting-point for all deliberations concerning the law of the sea.

53. The world community expected that the Conference would not simply make solemn declarations, but would draft a specific international convention that must be just and reasonable and acceptable to the overwhelming majority of States. The Conference's task was an extremely complex one; it could be carried out only if its deliberations were guided by the political will to act in the interests of all.

54. His delegation paid special attention to the principle of common heritage. The common heritage was a new and extremely important concept in international law. It could be divided into three elements: common property, common administration and a just distribution of benefits. It would ensure a higher degree of substantial equality in international relations.

55. His delegation supported the idea of an exclusive economic zone or patrimonial sea up to 200 miles wide, an idea that was widely accepted by the countries represented at the Conference. He stressed that Yugoslavia shared and had supported that concept from the very beginning. Nevertheless, his country had always pointed out that the geographic, ecological and other features of a particular region must be taken into consideration. Moreover, the creation of an exclusive economic zone must not be a barrier to the freedom of navigation

and overflight, as had been affirmed at the Fourth Conference of Heads of State or Government of Non-Aligned Countries held in September 1973 at Algiers.

56. The interests of long-distance fishing countries should not be an obstacle to the recognition of the economic zone of coastal States. Their interests could be safeguarded only by strengthening international economic co-operation on the basis of equality. His delegation attached special importance to co-operation between the developing countries and stressed the importance of regional or subregional arrangements that must take into account the legitimate interests of all the countries concerned, particularly the land-locked countries, and also the need for the development and rational management of resources.

57. As to the idea that the extension of national jurisdiction might threaten the traditional freedom of the sea, he stressed that it was the strong countries that profited most from those unlimited and undefined freedoms, adding that in the interests of peace and friendly international co-operation such a state of affairs should be urgently changed. As in other areas of international law, there was a move towards more equitable relations between countries.

58. The regulation of passage through straits used for international navigation was also very important. His Government considered that coastal States should exercise their jurisdiction over straits in such a way as to effectively guarantee their security and to safeguard their legitimate interests. Commercial navigation through and overflight of straits for permissible and legitimate purposes must also be guaranteed.

59. The situation of the land-locked countries also created considerable problems, particularly owing to the fact that most of them were also developing countries. The need had already been stressed in many international forums for the establishment of a preferential régime in favour of the geographically disadvantaged developing countries, in respect of access to and use of the sea and the exploitation of the living resources in areas of national jurisdiction. His Government firmly believed that the benefits of the sea should be accessible to all States without discrimination. The right of the land-locked countries to access to the sea must be confirmed as a general rule of international law. In each particular case, the conditions for the exercise of that right must, of course, be subject to bilateral agreement.

60. His delegation attached particular importance to the drafting of the part of the convention that would institute the international régime for the sea-bed beyond the limits of national jurisdiction and the international authority that would administer it. The provisions of the Declaration of Principles governing the sea-bed, adopted at the twenty-fifth session of the General Assembly, should be adequately incorporated in the future convention. The international régime should encompass a vast range of activities connected with the exploration, exploitation, regulation and control of the international area of the sea-bed, and other problems connected with the management of the area. The international community should be given the highest possible degree of control over the activities to ensure an equitable distribution of benefits, taking into account the interests of the developing countries, particularly those of them which were land-locked.

61. Although it did not deny the importance of such problems as the protection of the marine environment and fishing, his delegation was particularly interested in the establishment of appropriate rules governing the transfer of technology, including professional training. The exploitation of the resources of the sea required very sophisticated techniques that only a small number of highly developed countries possessed so far. It was in the interest of the whole international community to facilitate the access of all countries to modern technology in accordance with the principles established by the United Na-

tions Conference on Trade and Development and various United Nations bodies.

62. The Yugoslav Government was anxious to ensure peace and stability in the world and wished to see drafted a law of the sea that was best adapted to contemporary reality; it therefore sincerely hoped that the Conference would be a success.

63. On behalf of his delegation, he thanked the people and Government of Venezuela for their warm hospitality. He paid a tribute to Venezuela as a developing country and a country of Latin America which had helped to give the law of the sea a new direction. As the President of Venezuela had said in his opening statement, it was no longer a question of academic discussions or political hegemony, but of the very survival of man in the future.

*Mr. Kharas (Pakistan), Vice-President, took the Chair.*

64. Mr. WARIOBA (United Republic of Tanzania) thanked the President, the Government and the people of Venezuela for their hospitality. He paid a tribute to the President of the Conference and pledged his most active co-operation.

65. The Conference was the third and largest conference on the law of the sea held under the auspices of the United Nations. The third world was well represented, but he noted with regret the absence of representatives of national liberation movements from the countries which were Tanzania's neighbours.

66. For several centuries, certain concepts and dogmas had regulated State relationships in the oceans. Efforts had been made from time to time to modernize the law, particularly at the 1958 and 1960 Geneva Conferences. But those patchwork efforts had been insufficient. As a result of technological progress, and particularly of political developments over the previous 15 years, existing rules no longer met the requirements of contemporary reality. Many States that had recently acquired independence had been confronted with rules that ran counter to their interests and, in some cases, had led to conflicts; it was to be hoped that the outcome of the Conference would make it possible for order to prevail on the oceans. The Conference had agreed on rules of procedure based on a gentleman's agreement. Nevertheless, it was his delegation's firm conviction that the Conference would not really succeed unless it adopted a people's treaty that set out a just, clear and precise law.

67. In order to develop a modern international law, it was inevitable that certain concepts and dogmas would be challenged, particularly that of the freedom of the seas, which was completely inappropriate in the modern world. Freedom of the seas had ceased to serve the interests of international justice. It had become a catchword and an excuse for a few countries to exploit ruthlessly the resources of the sea, to terrorize the world and to destroy the marine environment. That type of freedom belonged to the old order and had outlived its time. True liberty struck a balance between rights and obligations.

68. Another dogma that had to be challenged was that of international community interests. It was no longer valid, for example, to claim that the freedom of fishing was in the interests of the international community when millions of human beings were suffering and dying from a lack of protein while others were making disproportionate profits. Nor could the freedom of navigation be justified when what was sought was simply to protect the interests of a small number of countries. It was not fair to invoke the freedom of scientific research when what was sought was to protect the interests of a few individuals or a few nations.

69. That was the context in which his delegation would approach every issue in the Conference. Its criterion would be the freedom of man and justice among peoples. It was convinced that the world had followed for too long rules or dogmas that had caused more conflicts than they had solved problems.

70. Speaking on the idea of an exclusive economic zone, which was of crucial interest to his country, he stressed that the

coastal States bore a tremendous responsibility for managing marine resources. The advocates of the freedom of fishing had so depleted or polluted their waters that they went to fish in waters distant from their own coasts but dangerously close to the waters of other States. His country was conscious of its duty to conserve living resources; its claim to the resources of the exclusive economic zone was partly based on that concern.

71. His delegation was not impressed by the contention that mobile resources could not be managed by boundaries, because State boundaries had not prevented proper management of natural resources thanks to bilateral and multilateral co-operation. Nor was his delegation impressed by the argument of full utilization of resources on the basis of ownership. A resource could not be left to waste simply because the owner did not utilize it fully. However, ability to exploit had never been a criterion of ownership.

72. His delegation adopted the same attitude to the fight against pollution and the regulation of scientific research. Any research in an area close to a country was of immediate relevance to that country and might also be of interest to the international community. Technology was available to all mankind but must be used to promote man's freedom. The developing countries did not intend to pay for technology with their freedom.

73. His delegation's position regarding the international seabed was well known. That area was the common heritage of mankind and must be placed under effective international control. Consequently, his delegation, together with those of other developing countries, favoured the establishment of an international authority in which the whole international community would take part to exploit the area in the interests of all. Any other approach would be tantamount to disinherit the vast majority of the world community in favour of those who had the means to grasp everything for themselves.

74. Similarly, the management of living resources and other activities on and in the high seas must come under effective international control. The plunder and depletion of the living resources of the high seas should not be allowed to continue. If those resources belonged to all, they must be managed in a manner that benefited all. The current system of management was pathetically inadequate, especially in the area of enforcement.

75. Turning to the question of land-locked countries, he noted that the need to provide those countries with access to the sea had already been recognized; that right must be reaffirmed, and the rights and obligations of land-locked States must be defined. The Declaration of the Organization of African Unity on the law of the sea, of May 1973, as amended at Mogadiscio in June 1974, indicated that the land-locked countries should also benefit from the living resources of the sea. So far as the area beyond national jurisdiction was concerned, his delegation was convinced that effective international control was the best way to achieve that end.

76. Mr. OULD CHEIKH ABDALLAHI (Mauritania) expressed his sincere gratitude to the Government and people of Venezuela for their cordial hospitality; he congratulated them on their perfect organization and the excellent working conditions they had provided.

77. The work begun by the Conference should certainly lead to a far-reaching redeployment of economic relationships between rich and poor countries by clearing away the after-effects of the old order. Starting from the inalienable principle of the permanent sovereignty of peoples over their own natural resources, his delegation thought that the new law of the sea should allow all coastal States to establish, beyond their territorial sea, an exclusive economic zone not exceeding 200 nautical miles from the baselines used to delimit the territorial sea. Within that zone, they would exercise permanent sovereignty over all their living and mineral resources; they alone would take decisions on scientific research and the fight against pollu-



tion. Nevertheless, in order to retain the sea's character as a link between peoples and in order to facilitate trade relations, the exercise of sovereignty by coastal States should not raise any barriers to innocent passage in the area, to overflight or the laying of cables and pipelines. The existence of such areas must not exclude co-operation between countries on a contractual basis for the proper exploitation of living and mineral resources.

78. The exclusive economic zone should be immediately adjacent to a territorial sea delimited according to a more just concept of safeguarding the security and integrity of the coastal States. While every State was best placed to appreciate the part of the sea it needed to provide its safeguard, taking into account its particular features, it was necessary, in view of the nature of the privileges attaching to the idea of territorial sea, to determine a medium term.

79. Beyond the exclusive economic zone, in other words on the high sea, the new international law must, by setting up appropriate authorities or by the conclusion of special conventions, allow the international community to regulate fishing having regard to its implications for the resources situated in the areas under national jurisdiction. Provision must also be made for ways to fight pollution and for compensation for damage.

80. As to the sea-bed, which was the common heritage of mankind, his delegation thought that, in order to ensure in practice that that area was in the public domain, the exploration for and exploitation of the resources in it should be carried out under the direct control of a world authority with juridical personality and functional privileges and immunities. That authority should distribute the profits derived from exploitation of the international zone, taking into account in particular the needs of the least developed of the developing countries, and it should seek to offset as much as possible the adverse consequences of possible ensuing fluctuations in commodity prices.

81. In view of the scramble of the great Powers to appropriate and exploit the resources of that zone, it was evident that without the control of a powerful authority the common heritage of mankind would be the heritage of only a minority of rich countries technically equipped to exploit it.

82. With respect to the States whose territory was divided by expanses of water, it was essential, for the safeguarding of their integrity and the full exercise of their sovereignty, that the expanses of water which divided their territory should be placed under their jurisdiction when the extent of those waters did not exceed a reasonable limit. That provision could not, of course, be applied to islands or groups of islands under the jurisdiction of a continental State and situated within the exclusive economic zone of that State. However, in order to safeguard the freedom of international navigation, the new law should provide that archipelagic States must define sea-lanes open without discrimination to merchant vessels. Similarly, it should recognize the sovereignty of coastal States over the straits which, according to appropriate criteria, appeared to be an integral part of their territory. In the case of straits fundamentally important to world trade, the right of innocent passage should be recognized without discrimination. Passage through straits within exclusive economic zones should be regulated within the framework of the régime which his delegation had recommended for those zones.

83. Scientific research should be open to all countries, whether coastal or not, if it was carried out exclusively for peaceful purposes; it should not, however, be carried out in the territorial seas and exclusive economic zones without the consent of the coastal States which had jurisdiction over those zones.

84. In order to be a real instrument of development and peace, the new law must take into account the basic interests of land-locked countries. It should recognize *inter alia* their right of access to the sea through neighbouring coastal States under

conditions which would respect the sovereignty of the latter. It should also recognize their right to participate in the exploitation of the living resources of the economic zones of their neighbours in order to provide for their food needs.

85. He congratulated the President on his determination to ensure that the rules of procedure of the Conference reflected as far as possible the opinion of the great majority. His delegation saw that as an expression of a legitimate desire to ensure that the instrument which would result from the Conference would be welcomed and accepted by the maximum number of States. However, it regretted the absence of the representatives of the national liberation movements recognized by the various regional groups or by international organizations.

86. Finally, the new system which the Conference would set up should contribute to the improvement of international relations and the establishment of conditions for a real and lasting peace; that required that the rich and powerful countries should not seek to maintain the existing international order to the detriment of the basic interests of the overwhelming majority of the inhabitants of the planet.

87. Mr. DIOUDE (Organization of African Unity) first of all paid a tribute to the memory of General Perón, whose policies had reflected the solidarity between the peoples of Africa and Latin America.

88. Expressing his sincere thanks to the Government and people of Venezuela for the warm and brotherly welcome given to the participants, he observed that it was appropriate that the Conference should meet in the native land of Simón Bolívar.

89. The African countries, through their mass participation, were demonstrating their interest in the Conference, the success of which was among the essential conditions for the survival of mankind.

90. They had not participated in the first two Conferences, and that had enabled the great Powers to formulate a law of the sea in accordance with their interests only and to extend to the seas their colonial policy based on the right of the strongest. It had soon become clear that the enormous appetites of some were the main obstacle to the development effort of young nations. In the face of the refusal of some multinational corporations—namely, some great Powers—to co-operate, the African countries had taken over their own economies in order to use the natural resources of each for the progress of all African peoples and the Council of Ministers of the Organization of African Unity had solemnly proclaimed the permanent sovereignty of the African countries over their natural resources.

91. The non-aligned countries, in the same spirit of solidarity, had undertaken concerted action at the world level. Thus it was that the special session of the General Assembly of the United Nations on raw materials and development had been convened, and the Caracas Conference was in a way a continuation of it. The Organization of African Unity believed that the Conference would give the great Powers the opportunity to prove their sincerity.

92. In a world in which the earth's riches were dwindling, the resources of the seas and oceans, which were not unlimited either, must be more equitably shared. While contributing to the preparation of a new law of the sea, Africa intended to defend its interests, which hitherto had been denied or threatened. The African countries had considered the problems which the Conference should solve and, despite divergent views, had prepared a declaration which took into account the interests of both coastal States and those of land-locked countries.

93. The active solidarity which united the third world countries had led them to request that the convention should contain a provision recognizing the land-locked countries' right of access to the sea. It should also define in a more precise manner the right of innocent passage.



94. In order to end the continually increasing imbalance between developed and developing countries, the Organization of African Unity believed that it was indispensable to recognize that all coastal States had the right to establish, beyond their territorial sea, an exclusive economic zone, whose breadth should not exceed 200 nautical miles, in which they would exercise permanent sovereignty over all the biological and mineral riches without unduly prejudicing other legitimate uses of the sea. However, by virtue of regional solidarity, the land-locked countries and the other disadvantaged countries had the right to participate on an equal footing in the exploitation of the living resources of neighbouring economic zones.

95. It was also necessary to protect the living resources from pollution and from the dangers connected with intensive fishing on the high seas of migratory and anadromous species by establishing regional institutions and an international authority entrusted with enforcing the principles of fisheries management.

96. Furthermore, the African countries believed that it was urgent to accelerate the transfer of technology with respect to ocean science, particularly by the training of personnel in the developing countries. Fruitful co-operation would then be possible.

97. Finally, given the importance of the international zone of the sea-bed, which the General Assembly had defined as "the common heritage of mankind", it was essential that no persons, natural or juridical, should undertake any exploitation before the international régime had been established. The Organization of African Unity believed that a treaty should be concluded regulating that zone, elaborating an international régime for the exploitation of biological and mineral riches of ocean space and instituting a body entrusted with applying that régime. That body should undertake the equitable distribution of benefits, minimize the disastrous repercussions which could arise from fluctuations in the prices of raw materials resulting from the exploitation of the zone, and distribute equitably among all developing countries all the revenues from such exploitation. It should also ensure the protection of the marine environment.

98. He believed that the principle of universality, which constituted the very essence of the United Nations, was flouted by the fact that representatives of racist and colonialist Powers which had plundered millions of human beings were participating in the Conference. The Conference should not forget the lesson of history and decide the lot of entire peoples without giving them the possibility of having their say.

99. The Organization of African Unity proposed a policy of peace and human brotherhood and hoped that the fruitful co-operation of all men for the progress and well-being of all would replace confrontation and imperialist exploitation.

*Mr. Amerasinghe (Sri Lanka) resumed the Chair.*

100. Mr. LE VAN LOI (Republic of Viet-Nam), speaking in exercise of the right of reply, pointed out that the Hoang Sa and Truong Sa Archipelagos had always been an integral part of Viet-Nam's national heritage. In January 1974, the forces of Peking had landed and occupied the Hoang Sa Archipelago after three days of air and naval battle. The Peking régime had thus given a new dimension to its expansionist and imperialist policy at the expense of developing countries bordering China. Tibet, the countries south of China's borders, and the northern part of Viet-Nam had one after another fallen under its sway. With the conquest of the Hoang Sa Archipelago, the Peking régime had entered a new stage: its objective was now to establish a new empire, embodying all the ocean space of the western Pacific and the seas of South-East Asia. The Truong Sa Archipelago, which it was also aiming at, was 600 miles from the Chinese coast. Furthermore, with the assistance of Hanoi it had used local rebel elements as a cover for its armed aggression against the independent countries in the region and for the purpose of interfering in those countries' internal affairs. In Viet-Nam they used for that purpose the so-called Provisional Revolutionary Government of South Viet-Nam, which did not represent any part of the people of South Viet-Nam. No threat from Peking would set back the Viet-Name people, who were resolved to defend and recover their heritage.

101. His delegation reserved the right to return to that question if it considered it necessary.

102. Mr. SOTH (Khmer Republic), speaking in exercise of the right of reply, said that one delegation had questioned the delegation and Government of the Khmer Republic and its political régime. Those insulting allegations were entirely baseless and constituted a flagrant interference in the internal affairs of the Khmer Republic. His delegation reserved the right to return to that question if it thought it necessary.

103. The PRESIDENT, without questioning the right of any country to exercise its right of reply, observed that the Conference on the Law of the Sea did not have the competence to solve the problems which had been raised.

104. Mr. KIM (Democratic People's Republic of Korea), speaking in exercise of the right of reply, said that the allegations by the representative of South Korea were intended only to conceal an inadmissible attitude with respect to the fishing grounds of the continental shelf. His own delegation had confined itself to the facts.

105. Referring to the unjust claims of the Saigon Government, he pointed out that the archipelagos in question were historically an integral part of Chinese territory.

106. Mr. RAMPHUL (Mauritius) paid a tribute to the memory of General Perón noting in particular his courageous policy with respect to oppressed peoples, such as the people of Guinea-Bissau, and to national liberation movements. He expressed his most sincere condolences to the family of the deceased and to the Argentine people.

*The meeting rose at 6:40 p.m.*

## 27th meeting

Wednesday, 3 July 1974, at 10.55 a.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.*

### Statement by the President

1. The PRESIDENT read out the text of a letter he had received from the head of the Argentine delegation thanking

the Conference for its expression of sympathy on the occasion of the death of General Perón, President of Argentina.

### General statements (continued)

2. Mr. GOKHALE (India) said that, since the issues to be discussed by the Conference would affect the interests of all States and the world community as a whole, all national libera-