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31st plenary meeting

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League's policies of co-operation with all nations for the benefit of mankind.

45. Those resolutions had also been co-ordinated with the measures adopted by the Organization of African Unity, in furtherance of the close co-operation between the two organizations and the solidarity between their member States.

46. The League and all its members were determined to contribute to the success of the Conference in establishing a new legal order based on equity and justice.

47. Another question of great importance was that of permitting the participation in the Conference of the Palestine Liberation Organization as the legitimate representative of the Palestinian people. The whole world had come to acknowledge that the people of Palestine were struggling for their legitimate right of self-determination, of which they had been deprived for so long. The League of Arab States also strongly supported the participation of all other liberation movements recognized by the regional organizations, and was convinced that the Conference would respond positively to that wish, seeing that such participation had been endorsed by the great majority of previous speakers.

The meeting rose at 5.30 p.m.

31st meeting

Monday, 8 July 1974, at 10.45 a.m.

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

General statements (*continued*)

1. Mr. STRONG (United Nations Environment Programme) said that the importance of the Conference from the environmental point of view could not be emphasized too strongly. The decisions it would take would affect the protection of the environment on which the life and well-being of all peoples depended.

2. The protection of the oceans was vital to the future of humanity, and any exploitation of their resources that was not accompanied by an *a priori* commitment to protect the environment could not be considered sound or sensible.

3. The current state of the marine environment was far from satisfactory. By the end of the century, the seas would be more intensely exploited than many areas on land. Their potential was of course immense, but care must be taken to exploit that potential without destroying it. It was not an organization that was required for that purpose but a comprehensive oceans management system. The United Nations Environment Programme (UNEP) made no claim to a monopoly of even the environmental aspects of such a system. Such organizations as the proposed International Sea-Bed Authority and the Inter-Governmental Maritime Consultative Organization (IMCO) should also be expected to incorporate environmental considerations in their special areas of competence. At the same time, as the responsibilities of those organizations would not be essentially environmental and might even on occasion conflict with environmental interests, it was for UNEP to make sure that they took full account of the environmental problems they created by their activities and that those activities were carried out in accordance with general environmental objectives and with the priorities established by Governments.

4. Currently, there was a disturbing increase in the use of "flags of convenience", important conventions remained unratified, and there was no framework of law, no organization for the sea-bed and no set of international standards for the protection of the marine environment.

5. Many Governments were struggling to study and resolve all those problems; he himself had been asked by UNEP to make an assessment of the problems affecting the marine environment and its living resources in specific areas.

6. The number of fish in the sea was not unlimited and there was already a decrease in the total world catch, for which overfishing and pollution were partly responsible. If those causes were eliminated or brought under control, there would be hope of obtaining greater yields of some species on a sustainable basis. The United Nations General Assembly had asked UNEP and the Food and Agriculture Organization of the United Nations to survey the state of depletion of fish stocks so as to gain an accurate idea of the different factors that were responsible for it.

7. For marine pollution, the Global Environmental Monitoring System which was being established in line with a decision taken by the UNEP Governing Council would provide the framework for a wide variety of research activities such as the Global Investigation of Pollution in the Marine Environment, the Pollution of the Oceans Originating on Land, the River Inputs into Ocean Systems, and the Integrated Global Ocean Stations System, which would be undertaken by existing intergovernmental or non-governmental organizations receiving support from UNEP. On the initiative and with the continuing help of the Intergovernmental Oceanographic Commission and its associated agencies a concerted attack was being mounted on scientific questions relating to a number of high-priority marine pollutants.

8. Nevertheless, however valuable the help of scientists might be in that field, they could not take the essential decisions. Those decisions concerned the choices which would decide the present and the future of mankind, and they should be defined and embodied in "standards". A standard was an authoritative measure of what was acceptable or unacceptable. The standards would not necessarily be binding on States. For example, in the general category of standards, there were the recommendations of competent international bodies. That approach was to be encouraged in highly technical matters, along with the trend towards standards recommended within the context of general principles. In his opinion, the establishment of those principles was the primary environmental task of the Conference on the Law of the Sea; for that reason, he wished to outline some of the principles in the hope of facilitating and perhaps accelerating the Conference's deliberations. First, in the sphere of the obligations of States, the following principles could be defined: States shall protect the quality and resources of the marine environment for the benefit of present and future generations; States shall co-operate with each other and with the competent international bodies in taking measures to protect the marine environment, including the development of minimum international standards and the establishment of machinery for dispute settlement; States shall take fully into account standards recommended by the competent international bodies in taking national measures for the protection of the marine environment. They shall also conform their national laws to obligatory international measures. And they shall ensure that their national laws and regulations provide adequate enforcement of national control measures.

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9. In the field of management and conservation of living resources, he proposed the following principles: States shall co-operate with other States and with competent international bodies in achieving high optimum yields of living marine resources on a sustainable basis; States shall adopt and enforce conservation measures for fishing carried out within their national jurisdictions.

10. For the control of pollution from all sources, he proposed the following principles: States shall be liable for injury caused by their own activities, those of their nationals and others under their control or registration to any portion of the marine environment, including areas and resources beyond the limits of national jurisdiction; States shall use the best practicable means to minimize the discharge of marine pollutants from all sources, land-based as well as marine-based.

11. Turning to the question of pollution from ships, he suggested that the Conference should adopt the following resolution: Urges States to accelerate the national procedures required to bring into force the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, signed in London in 1972, the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, and the International Convention on Civil Liability for Oil Pollution Damage concluded in 1969, the International Convention for the Prevention of Pollution from Ships signed in 1973, and other conventions on marine-based sources of pollution.

12. Even when those agreements came into force, difficulties in bringing about compliance would remain; he therefore proposed the following principles: States shall enforce their international obligations on ships flying their flags and shall have the right to do so on ships utilizing their coastal waters and on ships utilizing their ports; coastal States shall have the right to establish pollution control standards more stringent than those agreed internationally where these are necessary to prevent harm to areas determined in an appropriate international forum to be especially sensitive.

13. In the field of pollution from sea-bed activities, he said that if the Conference created a sea-bed Authority, it should have among its responsibilities: the setting of minimum binding standards to control pollution from exploration and exploitation of sea-bed resources beyond the limits of national jurisdiction. It should also have the right to ensure compliance with those standards by inspection and by exclusion of violators from the benefits of exploitation. Another principle that might be adopted was: coastal States shall take the minimum international standards set by the Sea-Bed Authority fully into account in regulating activities within their coastal areas and shall explicitly justify any weakening of such standards.

14. Under the heading of scientific research several points might be covered by the following principles: States shall permit scientific research in coastal areas, provided that it has peaceful purposes and that arrangements are made for complete and prompt sharing of its results with the coastal State; States shall co-operate with each other and with the competent international bodies in elaborating and executing plans for scientific research in the marine environment.

15. In the field of technical assistance, he proposed the following principles: States shall co-operate in providing technical assistance to developing countries to enable them to participate in programmes of scientific research in the marine environment and to take internationally-agreed measures for the protection of the marine environment; States shall provide, within the limits of their capabilities, assistance requested by other States threatened by major pollution incidents affecting the marine environment.

16. Those points did not constitute an exhaustive list and they did not necessarily require a separate convention, but they might be included in the various instruments under consideration. In any event, the new instruments to be agreed upon by the Conference should open legal and institutional avenues rather than making fixed and immutable arrangements.

17. Before concluding, he said that he would like to comment on two other concerns of very great importance. The first was the impact of the points he had mentioned on the major issues confronting the Conference concerning the proposed establishment of economic resource zones in coastal areas. He had taken no position, from the environmental point of view, on those zones as a concept. Their usefulness depended entirely on the specific rights and responsibilities that were attached to them. Accordingly, he was alarmed by the tendency to consider economic resource zones as in effect equivalent to the territorial sea. If that was to be the outcome of the Conference, important environmental and equity considerations would have been swept aside. From the environmental point of view, coastal State enforcement of anti-pollution measures within an economic resource zone might be desirable; but minimum international standards for the control of pollution from all marine-based sources that would be applicable within the economic zone were equally important. The rational management of fisheries could not be achieved within artificial boundaries, even those that defined an area of exclusive fishery rights. The future of world order lay not in division of the spoils but in a management system of overlapping and complementary competences. National and international action inevitably merged in a complex of interacting relationships, and one could not be effective without the other.

18. Another concern was the exemption of State-owned ships, in particular naval vessels, from existing international agreements on pollution from ships. Such exemption posed a special problem from the environmental point of view. The general interest must not be sacrificed for any reason. While amendment of the Conventions themselves would take years, that matter deserved much greater attention; in the meantime, voluntary declarations and actions by individual States could change present practice.

19. In conclusion, he said that the problem of sea-bed resources raised a critical question of equity in the relations between the more industrialized and the developing countries, as well as between coastal and shelf-locked or land-locked States. Failure to create a strong sea-bed régime would lead to pre-emption of the lion's share of the benefits by those with the capital and technology required, and to an accumulation of new pollution problems that would threaten in particular those States least able to take protective measures.

20. The two thirds of the world's population whose lives were polluted by worsening poverty must receive their share of the benefits of exploiting the resources of the oceans; it was not a matter of charity but of equity. The Conference had the opportunity to provide the additional resources required to bring decent standards of life to those people. Such action would not only reduce their dependence on the vagaries of development assistance from the more wealthy countries but would also provide a new underpinning for their economic security, which was indispensable to a viable world order.

21. Mr. VALENCIA RODRIGUEZ (Ecuador) said that his country had always held the same ideas with regard to the law of the sea, which were well known. It exercised its sovereignty and jurisdiction over the sea adjacent to its coast to a distance of 200 nautical miles measured from the relevant baselines. On 18 August 1952, Ecuador, Peru and Chile had proclaimed in the Declaration of Santiago their exclusive sovereignty and jurisdiction over an area extending for 200 miles as well as over the corresponding sea-bed and subsoil. In 1954, those three countries had undertaken to proceed by common agreement to the legal defence of the principle of sovereignty over that area of the sea. Since then, however, Ecuador had had to face the incursions of pirate vessels from powerful industrialized coun-

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tries which, pretending to be ignorant of its rights, had entered its territorial waters in order to plunder the wealth of a small developing country.

22. There were as yet no rules of international law to determine the breadth of the territorial sea. Neither the Conference for the Codification of International Law, held at The Hague in 1930, nor the United Nations Conferences on the Law of the Sea, held in Geneva in 1958 and 1960, had solved the problem. In fact, it was for the coastal State to indicate the breadth of the sea falling within its sovereignty and jurisdiction. In that connexion, he cited several examples of unilateral acts. Under the principles concerning the legal régime of the sea adopted by the Inter-American Council of Jurists at its second meeting, each State was entitled to set reasonable limits for its territorial sea, taking account of both geographical, geological and biological factors and economic, security and defence requirements. Consequently, it was impossible to claim that such unilateral acts infringed the rights or interests of the international community. Nor was there any reason to be surprised at the way the principle of the 200-mile limit had gained ground, although there were slightly different interpretations of it according to the geographical, geological and the living resource interests and the actual situation of each region or State. In that regard, he stressed the importance of the Declarations of Montevideo and Lima.[1] The position taken up in those Declarations presupposed the physical and legal unity of the zone from the point of view of surface area, the water column, the sea-bed with its subsoil, and the corresponding resources; and it implied that the coastal State exercised all the rights flowing from that concept. His country had therefore proclaimed its sovereignty and jurisdiction over the whole area and could not rest content with a simple recognition of uncertain powers, for specific purposes, within a 200-mile limit, since there was a risk that the limit might be deprived of any meaning.

23. As to the objective basis for the proclamation by the coastal State of sovereignty and jurisdiction over the adjacent waters for a distance of 200 nautical miles, he said that the developing countries were aware that they had a duty to provide their peoples with the resources needed for their economic growth, to satisfy their basic needs and to improve their material and cultural level of living in order to narrow the gap between rich and poor countries. The developing States possessing a coastline had become aware that the resources with which nature had endowed them were precisely those which were located in the sea adjacent to their coast but which were exploited by countries possessing large fishing fleets which used methods that had even led to the extinction of many species. That situation had favoured exclusively the enterprises of rich countries and consumption by peoples with a high income and a diet that was already rich in protein, while the developing countries, where the population problem was accompanied by a dearth of resources of all kinds, suffered from increasing poverty—a situation so well described by the representative of Western Samoa.

24. The sea and its resources were the answer to the problems of population explosion and poverty experienced by the countries of the third world, which included Ecuador. His country would not accept a convention that infringed its full rights over renewable and non-renewable resources of the area, and it would defend its resources— not only because they belonged to it, but also because its future was closely linked with the rational satisfaction of the needs of its people. Furthermore, Ecuador's exercise of its rights over a 200-mile-wide belt of sea in no way harmed the interests of the international community, whether from the point of view of freedom of overflight and navigation or of the laying of submarine cables. In that connexion, Ecuador acknowledged that separate régimes could coexist, since the coastal State also had a duty to co-operate with the international community.

25. Turning to the question of fishing, he said that, as early as 1927, the League of Nations had declared that fishery resources must be preserved for the future benefit of mankind; and, in 1956, the International Law Commission had recognized that the existing rules did not protect marine life from extermination. Consequently, the coastal State was left without defences against the plundering of its fishery resources by foreign fishing vessels. That situation could not be allowed to continue when the peoples of coastal States belonging to the under-developed world were suffering from malnutrition and dying of hunger. Some of those States had therefore repudiated the classic law formulated and imposed by the major Powers, and the coastal States had undertaken to defend and protect their resources, without however precluding other States, which adhered to the provisions they had laid down, from participating in the rational exploitation of their wealth. Since the area within the 200-mile limit constituted a single physical and legal unit, each and every species living within it was subject to the measures adopted by the coastal State in exercise of its sovereignty. An international régime that ignored those principles would open the way to the plunder of the resources of the coastal State by foreign fishing fleets and to unequal competition between rudimentary and highly-developed fishing techniques. In defending its fishery resources, the coastal State did not preclude co-operation with other States and with international organizations for the conservation of species by means of rules which it adopted in exercise of its sovereignty.

26. The principle of sovereignty over the adjacent sea was the only one which safeguarded the rights of the coastal State— in other words, the right of peoples to survive. The new law of the sea should spring from recognition of those facts and sanction solutions that were in harmony with the principles of international social justice. He understood sovereignty over the adjacent sea to mean a contractual sovereignty limited by the need for international coexistence and co-operation. What State could declare, in present circumstances, that it exercised full sovereign powers as conceived by the absolutists of bygone eras? There must therefore be a new conception of sovereignty, distinct from the traditional concept. The concepts of territorial sea, high seas, freedom of the seas, and innocent passage, among others, were merely a reflection of the political interests of certain Powers at a given point in history. Thus, the Powers which had formerly clung to the principle of *mare clausum* had become the champions of *mare liberum*. At that time, the doctrine had been based upon colonialism. In the present day, it was the actual situation of peoples, not the interests of a group of Powers, that made the transformation of the law of the sea imperative. The reformulation of the concepts involved should correspond to the realities of life, of which the law should be the truest expression.

27. The fact that the area of the sea-bed beyond the limits of national jurisdiction had been recognized as the common heritage of mankind was of supreme importance. The idea of the high seas that had been imposed at a time where "might is right" had given way to a more humane and equitable doctrine: within that area, the sea could not be subject to arbitrary decisions and its resources could not be the subject of any act of appropriation, since they belonged to mankind. A legal régime must be established which guaranteed the peaceful use of the international sea and its wealth for the benefit of all mankind, without any privileges or monopolies being granted to particular Powers or enterprises.

28. The rational exploitation and use of the resources of the international sea should be undertaken for the benefit of all peoples, in order to preclude indiscriminate exploitation favouring solely those possessing financial resources and advanced techniques. In the sharing of the advantages deriving from the international sea and its resources, account must be taken of the needs of the developing countries, the situation of land-locked, near-land-locked or geographically disadvantaged

[1] Documents A/AC.138/34 and 28.

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States, and also of the problems arising from the population explosion.

29. When the administrative authority was being established, account would have to be taken of the principle of the sovereign equality of all States laid down in the Charter. Therefore, any proposal to create privileged categories of member States was unacceptable, as were the temporary or permanent suspension of a State's membership and any attempt to prohibit its sharing of the advantages deriving from the international sea and its resources.

30. He pointed out that all States had a legitimate interest in preventing marine pollution and taking appropriate action to that end. Within the area under its jurisdiction, the coastal State was under an obligation to protect the marine environment, but it must do so in co-operation with neighbouring States, appropriate international bodies and the sea-bed authority.

31. The coastal States must encourage and authorize scientific research in its adjacent waters, while having the right to participate in the research and collect the results. It must also, in agreement with other States or competent technical bodies, take any steps it felt were necessary to protect its interests and to make a contribution to carrying out international programmes. It was also essential to establish standards that would guarantee effective participation by the developing countries in scientific activities to enable them to benefit from technical assistance and the transfer of technology. In that way it would be possible to ensure proper co-ordination between the area under the sovereignty and jurisdiction of the coastal State and the area that constituted the common heritage of mankind. It was obvious that a State's exercise of sovereignty over the sea adjacent to its coasts meant that the judges and courts of that State were competent to deal with offences committed in that area. It would be inadmissible, for example, for fishing offences committed in violation of the laws of the coastal State to be judged and punished by an international court. It was however logical that disputes regarding the international sea or the application of the convention to be adopted concerning that zone should be subject to the compulsory jurisdiction of the international courts to be set up by the convention in question.

32. The land-locked States must have the right of access to the sea in order to be able to make use of the sea and to exercise the preferential rights agreed on with neighbouring coastal States within their coastal waters; he hoped that a satisfactory solution would be found to the problems of Bolivia and Paraguay. It seemed that regional agreements specifying the utilization rights of those States and recognizing their preferential rights would solve the problem. It would also be just for those States to enjoy preferences in the use of the resources of the sea-bed and of international ocean space in general.

33. His country hoped that the convention to be drafted would be based on the sovereignty of States and would take into account the thinking that lay behind the different positions. It was for that reason that his country was not advocating the adoption by all countries of the idea of sovereignty over an adjacent sea 200 nautical miles wide, but rather was advocating that each State should extend its sovereignty and jurisdiction up to a distance of 200 miles, wherever such extension was possible. A formula that would suit States bordering on an open sea would not solve the problems of those bordering on closed or semi-closed seas. Similarly, the situation of States with a wide continental shelf was different from that of States with a narrow continental shelf; the archipelagic States were also a special case. There must therefore be different coexisting régimes that took into account the real geographical and ecological situation of States.

34. The new law of the sea must enshrine in compulsory rules the principles arising from the realities of a world preoccupied by development and characterized by the existence of new States defending their sovereignty and trying to consolidate their economic independence. The convention to be adopted must be an instrument enabling States to satisfy their interests and must be based on the justice that was essential for the maintenance of international peace and security.

Mr. Chao (Singapore), Vice-President, took the Chair.

35. Mr. ANDERSEN (Iceland) said that three periods could be discerned in the coastal States' exercise of their jurisdiction over marine resources. During the first period, there had been the obsolete system that the international community tried to codify during the 1958 and 1960 Geneva Conferences. Although the right of the coastal State over the sea-bed and subsoil of the continental shelf had been recognized, efforts had been made to establish a 12-mile fishery zone but there had been no willingness to go any further, even for countries like his own which were overwhelmingly dependent on coastal fisheries. Those were the reasons why Iceland had not ratified any of the Geneva Conventions. Later, there had emerged the concept of the economic zone not exceeding 200 nautical miles, which had already received the support of the overwhelming majority of the international community. Now, in the third period, the Conference was attempting to formulate the concept of the economic zone.

36. In 1948, Iceland had enacted a law concerning the continental shelf fisheries. The law was based on the premises of a narrow territorial sea in the interests of the freedom of navigation, and of a wider fishery zone covering the entire continental shelf. The law had been implemented gradually and currently applied to an area 200 miles wide. Iceland had thus been fighting for more than 25 years for the concept of an economic zone which was a matter of life or death to it. The countries that had long opposed the concept of the economic zone but had subsequently abandoned their position had been realistic; their new attitude was contributing to the atmosphere of goodwill without which the Conference could not achieve the results expected of it.

37. During the preparatory stage of the Conference, Iceland had repeatedly made its views known and had stressed the overwhelming importance of fishing for the country's economy: fishery products constituted about 85 per cent of the value of its exports. It was neither just nor equitable to give coastal States sovereign rights over the sea-bed and its resources while denying them the right to the living resources of the superjacent waters. The continental shelf was an ecological unit; its resources were part of the natural resources of the coastal State. His delegation wished to see the Conference produce a package solution in terms of contemporary realities. Such a solution must contain the following elements, which seemed to have the support of most delegations: firstly, the territorial sea should be kept within narrow limits in the interest of freedom of navigation, commerce and transportation; it seemed reasonable to contemplate a breadth of 12 miles from baselines. Passage through straits used for international navigation and the situation of archipelagic States must be taken into account.

38. Secondly, if the territorial sea was limited to 12 miles, there must be an economic zone not exceeding 200 miles. The overwhelming majority of the members of the international community supported the view that coastal fishing grounds, and not only the sea-bed resources, were part of the natural resources of the coastal State up to a distance of 200 miles from the baselines. Any approach that did not take that into account would be doomed to failure. Provision could also be made, however, for a coastal State to allow foreign nationals to fish in its economic zone if it was unwilling or unable to utilize the resources concerned. In such cases, reasonable compensation or a licence fee should be envisaged; the resources would be neither wasted nor under-utilized. But a decision on that point would necessarily have to be in the hands of the coastal State itself. There must also be provision for the transfer of fisheries

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technology. Access to a State's economic zone by developing States in the region would be a matter for agreement between the States concerned.

39. Thirdly, the question of conservation of fisheries must be dealt with in a realistic manner. Local fish stocks could best be conserved by the coastal State, with regional standards serving as a minimum. Conservation standards for semi-migratory species should be worked out on a regional basis; regional or international standards would be necessary for highly migratory species. Such regional or international standards would supplement national jurisdiction and would in no way be a substitute for it. In addition, special rules should apply to anadromous species, fishing for which should be prohibited except in rivers.

40. Fourthly, the claims of various States to sea-bed resources beyond the limit of 200 miles would have to be dealt with. That question was closely connected with the extent of the international sea. Some kind of revenue sharing might provide the solution to that problem.

41. Fifthly, the problem of the international sea-bed must be dealt with in accordance with the Declaration of Principles adopted by the General Assembly in December 1970.

42. Sixthly, pollution must be prevented. It had been pointed out that 80 per cent of marine pollution came from land-based sources and that pollution was no respecter of boundaries. It was therefore important to reduce all sources of pollution by adopting rules based on the results of the United Nations Conference on the Human Environment. The Executive Director of UNEP had provided some valuable information on that subject.

43. In the seventh place, scientific research should in principle be free, but the interests of the coastal State must be protected by providing for its participation in research projects and for it to have access to the results. Finally, the legitimate interest of land-locked States must be safeguarded.

44. If the Conference could concentrate its attention on working out a package deal of that kind, his delegation thought that it would be possible to work out the basic principles during the current session. If those principles could go down in history as the principles of Caracas, that would be a worthy tribute to the city that had received the participants so well. If the Conference could achieve those results through consensus, that would be a tribute to the United Nations also.

45. Mr. ABAD SANTOS (Philippines) thanked the Venezuelan Government for its warm hospitality and for the excellent arrangements it had made in organizing the Conference.

46. His delegation was fully aware of the importance of the Conference for the whole of mankind. To be sure, the problems confronting it were not easily solved, since they arose out of divergent and at times conflicting interests regarding the uses of the sea and its resources. He hoped, however, that by displaying mutual understanding and a generous spirit of negotiation, delegations could attain results that would be generally satisfactory to all.

47. As the sea had taken on greater importance, it had become manifest that the customary rules which had governed its use for centuries needed revision and expansion. The United Nations Conference on the Law of the Sea held in Geneva in 1958 had attempted to re-examine traditional practices, consider new problems and formulate new rules relative to the sea. Although it had resulted in four significant Conventions, the 1958 Conference had not altogether resolved such vital issues as the breadth of the territorial sea or the extent of the continental shelf. He wished to emphasize that, as early as 1955, during the preparatory phase of the 1958 Geneva Conference, the Philippines had presented a position paper stating that all waters around, between and connecting the different islands belonging to the Philippine Archipelago, irrespective of their width or dimension, were necessary appurtenances of its land territory, forming an integral part of the national or inland waters of the Philippines and subject to exclusive Philippine sovereignty. It was also worthy of recall that, according to the excellent preparatory document prepared for the 1958 Geneva Conference at the request of the United Nations Secretariat by a distinguished Norwegian lawyer, outlying, or mid-ocean, archipelagos were defined as "groups of islands situated out in the ocean at such a distance from the coasts of firm land as to be considered as an independent whole rather than forming part of or outer coastline of the mainland".[2] The document concluded that "frequently the only natural and practical solution is to treat such outlying archipelagos as a whole for the delimitation of territorial waters by drawing straight baselines from the outermost points of the archipelago—that is from the outermost points of the constituent islands, islets and rocks".[3]

48. Lest it be supposed that the statement on that method of drawing straight baselines was simply a unilateral declaration in a preparatory document, it should be recalled that the Convention on the Territorial Sea and the Contiguous Zone[4] followed that same method in article 4, paragraph 1, which provided that: "In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured." Article 5, paragraph 1, of the same Convention stated the consequences of that method by laying down that "Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State".

49. His delegation realized that those provisions referred to continental States, but saw no reason for making the method of straight baselines inapplicable to archipelagos. Refusal to apply the method to archipelagos would constitute an injustice, and in fact, a growing number of countries had recognized the necessity of a special régime for archipelagos, the baselines of which should be drawn from the outermost islands.

50. It was because the Philippines was an archipelago that its delegation was deeply concerned about the resolution of that issue on the Conference agenda, and felt that an archipelago must be governed by rules which recognized its peculiar configuration. The Philippines, which included more than 7,100 islands with a population of 41 million and a combined land area of 300,000 square kilometres, was more than a group of islands. Its land, waters and people formed an intrinsic geographical, economic and political entity, and historically had been recognized as such. That basic consideration of unity made it necessary that there should be international recognition of the right of an archipelagic State to draw straight baselines connecting the outermost points of its outermost islands and drying reefs, baselines from which the extent of the territorial sea of the archipelagic State was or might be determined. The waters within the baselines, regardless of their depth or distance from the coast, together with the corresponding sea-bed, subsoil and superjacent air space were subject to the sovereignty and exclusive jurisdiction of the archipelagic State. Sovereignty and exclusive jurisdiction over those waters were vital to archipelagic States, not only to their economy but also to their national security and territorial integrity.

51. Basing itself on those premises, the Philippines, as early as 1961, had enacted legislation defining the baselines of its archipelago and providing that the waters within the baselines of the archipelago were internal waters. The 1973 Philippine Constitution had given that declaration constitutional status by providing that the waters around, between and connecting the islands of the archipelago, irrespective of their breadth and dimensions, formed part of the internal waters of the Philippines.

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[2] *Official Records of the United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. 58.V.4), vol. I, p. 290.

[3] *Ibid.*, p. 302.

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

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52. That archipelagic concept had been endorsed by the Organization of African Unity in a Declaration on the Issues of the Law of the Sea prepared by 41 African ministers and later adopted by their respective Heads of State in 1973. That declaration had been presented to the Sea-Bed Committee and published as an official document of the General Assembly (A/CONF.62/33). The Latin American States had also supported the notion of an archipelagic State. Thus, Uruguay, in a document issued on 3 July 1973 (A/9021 and Corr.1 and 3, vol. III, sect. 13) recognized that concept and Ecuador, Panama and Peru had co-sponsored draft articles for inclusion in a convention on the law of the sea, article 3 of which made provision for an archipelagic State (*ibid.*, sect. 16) In a document dated 16 July 1973 (*ibid.*, sect. 23.), the delegation of the People's Republic of China had proposed, *inter alia*, the following: "An archipelago or an island chain consisting of islands close to each other may be taken as an integral whole in defining the limits of the territorial sea around it." Other countries, such as Greece and Malta, had also recognized the necessity of a special régime for archipelagos. No delegation had so far expressed formal opposition to that archipelagic concept.

53. It was worthy of note that during the present general debate, in addition to the co-sponsors of texts concerning archipelagos, Albania, Australia, Bangladesh, Canada, Ecuador, El Salvador, India, Iran, Norway, the Republic of Viet-Nam, Tonga and the United Kingdom had referred to or favourably endorsed the principle of archipelagos in their general statements and suggested that provisions on archipelagos should be included in the future convention on the law of the sea. His delegation appreciated those statements and interpreted them as giving due recognition to the issue of archipelagos in the codification of the law of the sea.

54. As a member of the community of nations, the Philippines fully recognized the importance of other issues before the Conference. His delegation was prepared to negotiate on any issue which did not bear upon territorial integrity and security. It had been rightly pointed out that the uses of the sea could be classified basically into two categories, resource-oriented and non-resource-oriented. The establishment of an exclusive economic zone or patrimonial sea, which had been strongly advocated by the African and Latin American States, was directed principally at the living and non-living resources of the sea. His delegation recognized the concept of the economic zone and supported its inclusion in the new law of the sea, as it believed that that would contribute in no small measure to the improvement of the economy and well-being of the developing countries. His delegation also was sensitive to the reasonable aspirations of the land-locked, shelf-locked and other geographically disadvantaged States to an equitable share in the benefits to be derived from the resources and uses of the sea.

55. As an archipelagic State, the Philippines had an economy which was largely dependent upon overseas trade, and his delegation supported the régime of innocent passage through straits used for international navigation but forming part of the territorial sea.

56. His delegation was fully prepared to participate in an extensive discussion on the equitable harmonization of those various uses of the sea. With regard to the claims made during the general debate over groups of islands situated in the South China sea, the Philippines wished to state that it maintained its claims to the islands known as Kalayaan, over which it had effective control and occupation.

57. The law of the sea to be formulated by the Conference should achieve a balance between the legitimate claims of particular States and of the international community. The proper balance could be achieved only when each State recognized that, at a given point, the interests of the international community were compatible with the particular vital interests of States.

58. Mr. FARES (Democratic Yemen), after thanking the Venezuelan Government for its hospitality, said that his delegation attached great importance to the Conference, which would deal with problems closely related to the economic and social development and the security of Democratic Yemen. The resources of the sea offered one way of helping to narrow the widening gap between developed and developing countries, and there again political will was indispensable. Because his country was small, with limited though not fully utilized resources, the resources of the sea were of vital importance to it. After a long period of colonial exploitation, the developing countries now realized that, without economic independence, their political independence was only a mockery. The developing countries could not achieve their legitimate aspirations for a better quality of life without exercising permanent sovereignty over their natural resources.

59. The old idea of inexhaustible resources of the seas had been rendered obsolete by modern technological capability and political power. The concept of the common heritage of mankind should not become an academic exercise while the resources of the developing countries were being depleted and their waters polluted for the benefit of a few developed countries. He shared the views of those who upheld the sovereignty of the coastal States over the resources within their national jurisdiction, without prejudice to the interests of other States and of the international community. The existing conventions on the law of the sea were grossly inadequate and no longer reflected the new developments that had taken place since their conclusion. A new convention, or conventions, should be initiated based on equity, equal sovereignty, security and the real participation of developing countries in world affairs. Without those, there could be only tension and instability in the world.

60. Democratic Yemen had enunciated its position with regard to the territorial sea in its Law No. 8 of 1970 under which the territorial sea had a breadth of 12 nautical miles measured from the straight baseline. That principle was in line with the position taken by most developing and socialist States. Under that law, the coastal State had full sovereignty over its territorial waters and commercial vessels had the right of innocent passage whereas non-commercial vessels had to acquire the prior authorization of the State in question. Furthermore, the law gave the coastal State the right to exercise the necessary control over the contiguous zone bordering the territorial sea to an extent of six miles measured from the end of the territorial sea. Democratic Yemen also recognized the right of coastal States to establish an exclusive economic zone not exceeding 200 nautical miles over which it enjoyed full sovereign rights of exploration and exploitation of its living and non-living resources, while respecting international navigation in and overflight of the zone and the laying of cables and pipelines in the zone provided that such activities did not in any way prejudice the States' legitimate interest in the zone. That principle should also be applied to the islands belonging to the coastal States. Democratic Yemen felt that the sea was not just an important means of communication, but a vital element in the life of its people. Fishing, in particular, played an important role in Democratic Yemen's development plans. In its five-year development plan beginning in 1974, Democratic Yemen had given priority to fisheries which, together with agriculture, constituted more than one third of the plan.

61. With respect to straits used for international navigation and forming part of the territorial sea, his delegation believed that coastal States had the sovereign right of controlling and regulating passage. Foreign commercial vessels should have the right of innocent passage but should observe the laws and relevant regulations of the coastal State. Non-commercial vessels should obtain prior authorization for passage. Those regulations stemmed from the strategic importance of such straits and were for the peace and security of the coastal States. Democratic Yemen was fully aware of that problem because since its independence in 1967, it had been confronted with all types

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of imperialistic warfare. Any international regime should take into account the legitimate interests of coastal States and provide for the necessary safeguards against the flagrant violations of the territorial sea of coastal States by the most sophisticated fleets.

62. On the point of delimitation, Democratic Yemen believed that where the coasts of two States were opposite or adjacent to each other, a median line should be adopted with every point equidistant from the appropriate baselines of the two States.

63. One final point that was of concern to Democratic Yemen was that of pollution of the marine environment. That problem had acquired dangerous dimensions particularly with respect to the spilling of oil. The Conference must face the important task of fixing the basic standards for the protection of the marine environment.

64. His country regretted and was concerned that the authentic representatives of the peoples of Viet-Nam, Cambodia and the liberation movements in Africa and Palestine were not participating in the Conference. It was inconceivable that at a Conference of such importance, their places were usurped by the representatives of colonialism, imperialism, racism and zionism. In the Middle East, the Palestinians had been expelled from their homeland to give way to the establishment of a Zionist exclusively Jewish State serving the interests of imperialism and colonialism in the area. The Palestine Liberation Organization, the sole representative of the Palestinians, together with other representatives of the liberation movements struggling for their independence and sovereignty, should be invited to participate in the present and in future sessions of a Conference which would in many respects forge the destiny of mankind and which upheld justice and equity.

65. In conclusion, he was aware of the difficulties of the enormous task before the Conference and hoped that it would be successful. He gave the assurance that his delegation would unreservedly contribute its support and co-operation to that end.

66. Mr. LUPINACCI (Uruguay), exercising his right of reply, said that when he had stated his concern at the trend to consider the economic zone as the equivalent of the territorial sea, the Executive Director of the United Nations Environment Programme had, in his opinion, gone beyond the limits of his competence in an inadmissible manner by giving his opinion on a substantive question which was before the Conference and taking a position contrary to that of many participating States. He wished therefore to make the strongest possible protest on the matter.

67. Mr. VALENCIA RODRIGUEZ (Ecuador) said that he could not accept the statement by the Executive Director of UNEP on the economic zone. His delegation did not believe that the Executive Director was entitled to express an opinion on a question which dealt with the sovereignty of each State.

68. Mr. GALINDO POHL (El Salvador) said that he had listened with the greatest interest to the statement by the Executive Director of UNEP, whose concrete proposals deserved careful consideration. He did not, however, agree with him in his belief that the establishment of an economic zone would neglect important considerations of equity and environmental protection. The proposed economic zone would be of such a nature as to be compatible with the interests of the international community. States knew and accepted their responsibilities regarding the marine environment. When rights were discussed, it was inappropriate to use the argument of potential abuses, which were naturally reprehensible. In 1958, it had been argued that the economic zone was a threat to freedom of navigation; in 1974 it was being argued that it was a threat to the preservation of the marine environment. The former argument had already been rejected as being inconsistent; the pollution argument would certainly also be rejected. Finally, he did not believe that the trend which seemed to alarm the Executive Director of UNEP was in fact real.

69. Mr. CALERO RODRIGUES (Brazil) could not accept the opinion of the Executive Director of the UNEP on the economic zone: it might well be asked why the coastal States responsible for controlling pollution in the territorial sea would not be in a position to do as much in the economic zone. Nor did he agree with the Executive Director in what he had said about fisheries management because, while there were artificial limits, it should not be forgotten that the limits were real and that a coastal State was in a better position to achieve results in that field than a somewhat vague international organization.

70. Mr. BAKULA (Peru) while recognizing that the statement of the Executive Director of UNEP had been most interesting, shared the opinions expressed against his one-sided point of view. The Executive Director had gone beyond his competence in supporting the views of certain Powers against those of several others. He reserved his right to return to that question.

71. Mr. LISTRE (Argentina) associated himself with the statements made by the representatives of Uruguay and other countries in the exercise of their right of reply. He was concerned to see a person entrusted with high responsibilities in an international organization criticizing the position taken by various delegations.

72. Mr. NJENGA (Kenya) said he was grateful to the Executive Director of UNEP for the thorough and comprehensive statement he had made; he was sure it would be very useful to the Conference in its work. He made an appeal to the delegations which had objected to one sentence of that statement, about which there seemed to have been some misunderstanding; the misunderstanding arose over whether the statement should be judged solely on the basis of that statement, or considered as a whole on its merits. His delegation, which took an active part in the evolution of the concept of the exclusive economic zone, would do its best to ensure that it retained its essential characteristics as a distinct concept with features significantly different from those of the territorial sea.

73. Mr. STRONG (United Nations Environment Programme) assured all delegations that he had in no way intended in his statement to take a position against the views of any Government. He regretted that his remarks, which had been aimed solely at the ecological aspects of the problem, had given rise to that interpretation.

The meeting rose at 1.45 p.m.