Third United Nations Conference on the Law of the Sea

1973-1982
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Summary Records of Plenary Meetings
46th plenary meeting

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present conditions, and still more so in the future, it was simply inadmissible that an essential food reserve of mankind should be conceived of as belonging to no one, and exploited as such. That view had been characteristic of a rudimentary system of rules which was appropriate only in a situation of great abundance and scarce demand, as had been the case in the past with sea resources. Those same premises, i.e., the practically unlimited character of the sea and the impossibility of grasping it, like air, which Grotius had had in mind as a basis for his theory of the freedom of the seas, had ceased to be sound. Today, the resources of the sea, whether renewable or non-renewable, the open sea, the sea-bed, and the subsoil beyond the limits of national jurisdiction must all be considered as *res communis*, as assets which belonged to all nations rather than to no one.

33. Man's whole attitude towards the sea would have to change. Until the present he had used it freely and wastefully, without concern for its management and almost without concern for preserving its living resources. Such an attitude was no longer allowable under present conditions. Other factors which imposed the necessity of regulating the uses of the sea globally, and administering them internationally, were: the dramatic increase in world population and the consequent increase in the demand for foods originating in the sea; growing industrialization on all continents; the concentration of population in coastal areas; the ever-increasing extraction of oil from continental shelves; the increase in navigation and the ever more frequent use of giant tankers, liquid gas tankers, and nuclear vessels; and the growing use of chemical substances, large amounts of which ended up in the sea. Every day new and greater conflicts between the various competing uses of the oceans would arise, conflicts which, of course, no country could cope with alone.

34. Moreover, there was a constant interaction between the many uses of the seas. Exploitation of the resources of the sea-bed could affect the use of the superjacent waters, and vice versa. Activities in international and in national coastal areas likewise affected each other—the sea as a whole, together with the atmosphere above it, formed an ecological system. All such interactions required global and integrated perspectives and action with regard to the marine environment.

35. Mexico was fully aware of the obstacles and difficulties which stood in the way. There were powerful vested interests. The great Powers did not seem to be ready to give international bodies the powers necessary for the proper management of the oceans for the benefit of all countries. The day would inevitably come when those powers would have to be granted and the process should be begun as soon as possible. In any case, the present Conference was a propitious occasion to plant the seed of an idea which would germinate later.

36. Although he spoke only on behalf of Mexico, he felt deep solidarity with those countries which had got the worst of economic relations among nations in the past and which were now fighting boldly to overcome under-development. The law of the sea formulated by the Conference could be a powerful instrument which would enable the third world to achieve permanent and effective sovereignty over all its natural resources, and which indirectly would make for a more democratic and juster international division of labour.

37. It was the purpose of the charter of economic rights and duties of States, being prepared by a working group of the United Nations, to enunciate principles encouraging more equitable economic relations among States. The recent session of that group in Mexico City had shown the difficulties encountered in establishing international legal rules applicable to a community of nations as heterogeneous and as inequitably organized as the present one. The violent and at times irreconcilable conflicts between the interests of various groups of countries, and the dynamism and fluidity of present-day international society had been obstacles which at times had appeared almost insuperable.

38. But everyone must have faith in the future and in the value and efficacy of ideas. Without that double act of faith, the backward countries would sink into despondency.

39. He hoped that the Conference would be successful and would reach an agreement on the basic principles for a new law of the sea. He trusted that Venezuela's efforts would be rewarded with concrete results which would receive broad support from the countries assembled at the Conference. Lastly, he hoped, that reason would triumph at the Conference. Mexico would lend its best efforts to that lofty common task.

40. The PRESIDENT, speaking on behalf of the Conference, thanked His Excellency the President of Mexico for his extremely important statement.

The meeting rose at 11.10 a.m.

46th meeting

Monday, 29 July 1974, at 10.20 a.m.

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

Progress of work: statements by the Chairmen of the Main Committees

1. Mr. ENGO (United Republic of Cameroon) said that the First Committee expected to complete the first phase of its work—the removal of the square brackets, alternative texts and repetitions—by the end of the week. The Committee had not yet succeeded in producing the texts and alternatives that had been hoped for; it was therefore not yet possible to begin direct negotiations. Nevertheless, work on the first 23 articles would be completed very shortly. The officers of the Committee had been trying to ascertain the extent to which opinions differed on the question of the final negotiations. The main problem was the political and economic consequences of sea-bed exploitation.

2. The Committee had heard the views of the United Nations Conference on Trade and Development on the economic consequences of sea-bed exploitation; the representative of a highly industrialized country had subsequently stated that he could not accept the conclusions of the Conference, or the premises on which they were based. The officers of the Committee had considered it appropriate, in order to make the work of the Committee more productive, to begin preliminary discussions to enable the developed countries to present their case and to allow the Committee to consider the technical and political aspects of the problem. The proposed procedure appeared to enjoy general support. He hoped that the discussions would make it possible to take political decisions on the question of exploitation.

3. The informal working group of the whole would present its preliminary report to the Main Committee the following day.

4. Mr. AGUILAR (Venezuela) said that the Second Committee, acting on a decision taken at its first meeting, was dealing with the items on its agenda one by one. It was considering a number of informal working papers prepared by the officers of the Committee and by the Chairman to identify the main trends and produce acceptable formulas. The Committee had completed its work on item 2; a revised version of the informal working paper on the item was to be issued shortly. The discussion of item 3 had been deferred because of the item's close links with other topics. The Committee had concluded its general debate on item 4; the officers of the Committee had prepared a working paper that was due to be distributed that day. It was hoped to conclude the general debate on item 5 that day and to move on to item 6. He hoped that it would be possible to complete consideration of items 2 to 7 by the end of the week and to prepare a working paper for each topic. If that were done, it would help to set the process of negotiation in motion and to move towards a package deal.

5. The Committee was aware of the limited time available and had already decided to limit the length of statements to 15 minutes. Twenty-four draft articles had been received so far. The Committee would continue to hold formal and informal meetings twice a day.

6. With only 24 working days remaining, the Conference was working against the clock; he stressed the importance of beginning the negotiating process as soon as possible.

7. Mr. YANKOV (Bulgaria) said that the Third Committee had met in formal session the previous Friday to discuss the progress reports on the informal discussions on items 12, 13 and 14. A number of formal proposals had been submitted on item 12; more were expected. At the request of the Committee, the Secretariat had prepared and issued comparative tables of proposals and a report on problems of acquisition and transfer of marine technology. The Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area was also before the Committee as an illustration of some original arrangements to fight pollution.

8. He stressed the importance of the work done in the informal meetings and said that negotiations proper had begun in the course of those meetings.

9. Three meetings had been devoted to the subject of marine pollution; 5 out of 10 items had been reviewed with their related draft articles. As many members had wanted, the formal meetings had reviewed the work done in New York in March 1973 and at Geneva subsequently. He hoped that once the review was completed the informal meetings would lead to the production of draft treaty articles, although no common text had been agreed on as yet.

10. The comparative table included material on jurisdiction and enforcement. The crux of that problem in the Third Committee was the extent of the rights and duties of coastal States. The Committee's working procedure was to consider amendments to the texts before it, and its work was recorded in conference room papers. The final work of consolidation would be done by small consultation and drafting groups which, although open-ended, would consist at least of the authors of proposals.

11. Three informal meetings had been held to discuss items 13 and 14. Although the meetings had been informal, delegations had shown a keen interest: there had been 132 speakers and 13 informal proposals. The basic material for the discussion had been the proposals of Sub-Committee III of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in 1973, and the meetings of the working group in Geneva in 1973. He drew attention to the fact that there had been no proposals submitted on the acquisition and transfer of technology. He urged delegations specifically interested in the matter to submit proposals on that subject.

12. The over-all conclusions to be drawn from the Committee's work were: first, negotiations proper had begun, and the informal meetings provided an appropriate climate for them. Secondly, the main problems in the discussions referred to the extent of coastal State jurisdiction and the rights and obligations of other States. Much progress would be made if a way could be found to clear up that issue. Thirdly, although there was no need for panic, he wished to bring a sense of urgency to the Conference. Although the hopes of those representatives who had expected a complete convention in 10 weeks were bound to be frustrated, and further time was needed to generate the political will for negotiations, there was a greater need for consultations with regional groups and individual delegations, especially those submitting proposals and those holding extreme positions. Although there was a desire to accelerate the work of the Conference, the proper machinery must be provided.

13. The PRESIDENT observed that, having heard the reports of the Chairmen of the Main Committees, he felt the situation was less bleak than he had feared. As the Conference approached the end of the sixth week of its work, it must take stock in order to determine how the remaining weeks were to be used and what it should seek to achieve before the end of its session in Caracas. In view of the number of issues on which there were various degrees of divergency of opinion and position, it was too much to expect that a treaty or convention could be concluded at the session. The Conference must therefore consider what alternative course it should follow. He had held consultations with the Chairmen of the three Main Committees and with various delegations and wished to suggest that the Conference should try to achieve some measure of agreement on basic issues. A statement of agreement on those issues might constitute the final document of the session though that statement should not be confused with a declaration of principles. Ideally, it should take the form of acceptance of certain definite texts. If that proved impracticable, the agreement should at least be stated in precise terms and, as far as possible, in treaty language. For that purpose, the Committees should be given as much time as possible to secure agreement on fundamental issues; at the appropriate moment, the President, in consultation with the Chairmen of the three Main Committees, should present to the Conference a statement of agreement of fundamental issues. It would be most desirable to secure acceptance of any text by general agreement. The Committees would have to decide how to deal with alternative texts. Any decision taken at that stage would be subject to review by delegations in the light of their success in securing acceptance of their position on other issues.

14. There were certain problems for which it was impossible to devise a uniformly applicable rule. It would therefore be practical to devise a rule which would be basic to all situations but which allowed for regional arrangements to be made to suit special situations and circumstances. He commended that procedure to the Conference as one that would enable it to achieve some tangible results, not only by demonstrating to Governments that delegations were seriously intent on preventing a loss of momentum, but also by securing a document which would provide the basis for the resumption of the Conference's work and negotiations at the following session. It would also be a clear indication to international public opinion that a conscientious effort had been made in Caracas to promote agreement and to advance towards the conclusion of a generally acceptable convention.

15. If the measure of agreement and degree of progress he had in mind could be attained in Caracas, there was every prospect of concluding the final treaty or convention at the following session, which, it had been suggested, might be held in the spring, rather than in July or August, of 1975.

General statements (*continued*)*

16. Mr. TEMPLETON (New Zealand) observed that his delegation had not participated in the general debate. He now wished to introduce, as a member of the New Zealand delegation, the Prime Minister of the Cook Islands, a territory closely associated with New Zealand. The Cook Islands had for some years been fully self-governing after an act of self-determination, but retained of its own choice a constitutional relationship with New Zealand. The territory was now again moving on the path of constitutional development towards independence and had its own views on the matters being discussed by the Conference.

17. Sir Albert HENRY (New Zealand) said that he was impressed by the consideration that the Conference was giving to the developing countries, but he also felt some concern as to whether the circumstances of small island countries such as his own were fully appreciated by those who had the influence and strength to decide the matters before the Conference.

18. The Cook Islands consisted of 15 small islands scattered over the South Pacific, several hundred miles east of Fiji, Tonga and Western Samoa and west of French Polynesia, thousands of miles south of the Hawaiian Islands and nearly 2,000 miles north-east of New Zealand. Its total area was 93 square miles and its population 22,000.

19. Until it became self-governing on 4 August 1965, under the auspices and with the approval of the United Nations, his country had been administered by New Zealand, to which it was very grateful. It had chosen to continue an association with that country, under which New Zealand had responsibility for its external affairs and defence, but only in consultation with it. That arrangement could be altered unilaterally by the Cook Islands at any time. His Government was considering whether to take further steps towards full independence; but the present position of his country on the matters before the Conference should not differ in any way from the position it would take if it were a fully independent sovereign State. His country was proud to be self-governing, in a free association with New Zealand: it was not under anyone's domination or control. The Cook Islands should not therefore be prejudiced by that status and should have the same benefits as sovereign States with regard to the economic zone.

20. The greatest drawback to his country's development had been its geographic position: a group of tiny islands scattered over the Pacific Ocean, remote and isolated. Communications and transport were difficult and expensive and hampered trading and economic development. The land mass was small and there were no minerals or similar products which could be used commercially to develop the economy.

21. The sea was as important as the land to the people of small Pacific islands, particularly on islands of coral atoll formation where there was very little soil or vegetation. Nearly half the Cook Islands were such atolls, although the principal island, Rarotonga, was volcanic in origin and contained good arable land. The sea provided the only source of protein, the bulk of the food, and a small income from pearl shell and fish.

22. His Government realized that the sea could become a dominant factor in the development of the country's economy. Despite a significant increase in the budget, reliance on external aid had decreased from about 80 per cent in 1965 to about 40 per cent at present. With the right of free entry into New Zealand, however, his country had lost 14,000 of its population—apart from the 22,000 still living in the islands. The sea might offer the only chance of attracting people back by strengthening the country's economy and broadening its economic base.

23. A small-scale commercial fishing industry had recently been started, but demands within the islands would have to be met before the sale of fish overseas could be considered. With virtually no continental shelf, feeding grounds and the density of fish were relatively limited.

24. Advances in technology, however, might facilitate the discovery and extraction of minerals from the sea-bed round the islands, in which case it would be only just for the Cook Islands to receive the benefits. In view of the many hundreds of miles separating the Cook Islands from its nearest neighbours, an economic zone of 200 miles round each island would not give rise to any significant problems with its neighbours. His country strongly supported the concept of such an economic zone.

25. It would be unfair and inequitable to limit the size of his country's economic zone by reference to its land mass or population, both of which were very small by world standards; but the Cook Islands had been recognized as a self-governing country by the United Nations and on the principles of that body claimed treatment as the equal of much larger countries. He hoped that the Conference would pay special attention to small island countries. In appealing for recognition of their position, he included his neighbours in the Pacific, some of which were not directly represented at the Conference. Those countries, like his own, were dependent on the sea: it did not seem reasonable that they should also be deprived of the full benefits of an economic zone.

26. He hoped that special consideration would also be given to countries in Africa, Asia and Latin America, some of whose problems—as he had learnt from attending the Conference—were as pressing as those of his own country, and that means would be found to ensure that they received a fair share of the seas' resources.

27. Mr. POPPER (Food and Agriculture Organization of the United Nations) said that he was grateful for the opportunity of addressing perhaps the greatest and most important United Nations Conference ever convened.

28. He proposed to speak about two matters of concern to FAO and to the Conference: first, the state and prospects of world fisheries and, secondly, the activities of FAO and other international organizations in furthering rational utilization of fishery resources and ensuring their full contribution to world nutrition and economic development.

29. His organization had presented a detailed report on the exploitation of world fish resources to the sea-bed Committee in 1973, and that document, revised and updated, would be distributed to participants of the Conference under the title "Review of the Status of Exploitation of the World Fish Resources". It contained detailed statistics for marine and inland stocks for 1972, the last year for which complete statistics were available.

30. The over-all statistics showed a decline in marine catches from over 60 million tons in 1970-71 to 56 million tons in 1972. The estimated figure for 1973 was 54 million tons. The 10 per cent drop between 1970-71 and 1973 reflected a dramatic decline in the catch of Peruvian anchoveta from 13.1 million tons in 1970 to 4.8 million in 1972 and 2.3 million in 1973. Energetic conservation measures by the Government of Peru seemed, however, to be bringing about recovery.

31. The world catch of other marine fish had increased by 8 per cent from 47.6 million tons in 1970 to 51.4 million in 1972. The majority of fisheries of more attractive stocks—e.g. larger demersal species, lobster, shrimp, tuna, etc.—were probably fully exploited, but the number of seriously depleted stocks was quite small. Whales and other marine mammals were endangered because of their slow reproductive rate. There was also depletion of stocks where one species had been heavily exploited and replaced by another competing species.

32. In the case of Alaska pollock in the north Pacific and mackerel in the north-west Atlantic, catches were now approaching the tolerable limits. Exploitation in the south-west Atlantic and in the Arabian Sea could be expanded.

*Resumed from the 42nd meeting.

33. Estimates made in 1965 for the Indicative World Plan for Agricultural Development showed the annual potential yield of conventional marine species of fish, crustaceans and molluscs to be 118 million tons. The world catch had then been 43 million tons or 36 per cent of the estimate. By 1972, 50 per cent of the potential had been harvested, leaving room for substantial increases, except in the case of fully or over-exploited stocks.

34. Increases would depend on technological progress in locating and catching currently unexploited stocks. New or modified products from such catches had to be introduced. Fish farming, which already accounted for 5 million tons annually, was also promising. Coastal aquaculture and intensified fish culture in inland waters should make it possible to increase production tenfold in three decades. Research was needed to improve techniques; adequate finance, personnel training and over-all planning were required; and protection of coastal waters from pollution was essential.

35. Considerable gains could be made by avoiding waste both at the catching stage and during the handling and distribution processes, and FAO was giving increased attention to those problems.

36. The role of FAO was to promote international co-operation in the rational management of living resources. Many major fisheries were of international concern, either because the fishing took place on the high seas, or because the fish moved between areas under different national jurisdictions. Those aspects were of special interest to FAO as the United Nations specialized agency responsible for the conservation, sound management and development of marine living resources. FAO had established regional fishery commissions in areas where coastal States were predominantly developing countries.

37. Development was inseparable from management. FAO was accordingly expanding the activities of its fishery commissions to help developing countries increase their fishing capability and strengthen their industries. Three regional development programmes—in the Indian Ocean, South China Sea and East Central Atlantic—had been launched with assistance funds provided by the United Nations Development Programme.

38. Regional fishery bodies had been established outside FAO in the Atlantic and Pacific Oceans, and FAO co-operated with them in the rational management of fish stocks. The governing bodies had promoted co-ordination among the commissions to study interactions between fisheries and to eliminate diversion from one area to another. Effective régimes in adjacent areas facilitated enforcement and sound management.

39. In 1965, FAO had established the Committee on Fisheries as a world-wide intergovernmental forum. Each year the Committee reviewed international fishery problems and considered possible solutions through concerted action. Since 1971, for a trial period of four years, membership of the Committee was open to any interested FAO member countries. The Committee had considered its possible future responsibilities, and decided at its eighth session that after the four-year trial period and in the light of the results of the Conference on the Law of the Sea, it would review its structure, status and functions.

40. The Conference of FAO, at which over 130 member States were represented, had noted that FAO must play an increased role in management problems and in assistance to countries and regional fishing bodies. Partial implementation in the technical sphere need not await the conclusions of the Conference of the Law of the Sea. The FAO Committee had postponed its annual session so that it could take into account the Conference's results.

41. Close co-operation had been established between FAO and the sea-bed Committee and he hoped that that co-operation would now be continued as between FAO and the Conference, for which FAO would be happy to provide information or documentation.

Introduction of document A/CONF.62/L.4

42. Mr. TUNCEL (Turkey) said that he assumed that all delegations had seen document A/CONF.62/L.4. If that document was submitted to the plenary Conference for discussion, he would have to raise a point of order. It should be referred to the Second Committee without examination. Discussion of such a document in the plenary would result in unnecessary duplication.

43. The PRESIDENT said that document A/CONF.62/L.4 was being introduced in the plenary Conference because the subjects it covered did not fall exclusively within the mandate of any one of the three Main Committees. The document would be formally introduced and then referred to the Second Committee.

44. He asked the representative of Turkey if he wished to raise his point of order at the present stage.

45. Mr. TUNCEL (Turkey) said that he would prefer to wait until the matter had been discussed before deciding whether it would be necessary.

46. The PRESIDENT said that there could be no discussion of the matter.

47. Mr. BAKULA (Peru), speaking on a point of order, suggested that the President should ask the sponsors of the working paper whether, in view of the situation that had arisen, they might not consider it more appropriate to discuss it in the meeting of the Second Committee scheduled to follow the present plenary meeting.

48. Mr. BEESLEY (Canada) said that the President himself had pointed out that the document was beyond the scope of any one Committee. The protection and preservation of the marine environment, for example, and scientific research were matters for the Third Committee. Introducing it in the Second Committee might also give rise to a procedural discussion. It was precisely because the document was based on an integrated approach and raised fundamental questions for each Committee that he had asked to present it in the plenary meeting. He had no objection to a point of order and a ruling by the President, or even a vote, provided the question was settled without delay.

49. Mr. KNOKE (Federal Republic of Germany), raising a point of order, moved that the document should not be introduced or discussed in the plenary meeting as it was a subject for the Second Committee.

50. The PRESIDENT, in accordance with rule 25 of the rules of procedure ruled that the introduction of the document in the plenary meeting was in order, but that there should be no discussion or examination of it in that forum. His reasons were that any delegation had the right to choose the forum in which it introduced a proposal. Proposals, in strict constitutional terms, should be made to the Conference, despite the fact that subjects and issues were assigned to the Main Committees. That was an act of delegation by the Conference: it indicated the precise subsidiary organ of the Conference to which proposals should be referred but did not extinguish the right to which he had referred. If a proposal was introduced in the Conference, the Conference took the decision to refer it to the appropriate subsidiary organ. If a delegation chose, for reasons of convenience or other reasons, to introduce a proposal in the first instance in a Committee, it was free to do so. The procedure to be followed in the present instance should not be regarded as a special privilege extended to the sponsors of document A/CONF.62/L.4: it would be extended to others who wished it to be applied to their proposals. He could only appeal to delegations to exercise discretion and restraint in resorting to that procedure. In that connexion he felt that the observations made by the representatives of Turkey and Peru were not without merit, especially in view of the limited time available

and the paramount necessity of avoiding any encroachment on the time of the Main Committees, where the principal burden of responsibility for hammering out a convention rested.

51. Mr. KEDADI (Tunisia) appealed against the President's ruling.

52. The PRESIDENT said that, in accordance with article 25 of the rules of procedure, he would put to the vote Tunisia's appeal against his ruling to allow the representative of Canada to introduce working paper A/CONF.62/L.4 at the plenary meeting.

At the request of a number of representatives, a vote was taken by roll-call.

Somalia, having been drawn by lot by the President, was called upon to vote first.

In favor: Sudan, Thailand, Togo, Tunisia, Turkey, Uganda, Ukrainian SSR, Union of Soviet Socialist Republics, Albania, Algeria, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Byelorussian SSR, Cuba, Czechoslovakia, Dahomey, Ecuador, El Salvador, France, Gambia, German Democratic Republic, Germany (Federal Republic of), Hungary, Iran, Iraq, Italy, Japan, Luxembourg, Madagascar, Mongolia, Morocco, Peru, Poland, Romania, Singapore.

Against: Somalia, South Africa, Spain, Swaziland, Sweden, Tonga, Trinidad and Tobago, United Kingdom, United Republic of Cameroon, United States of America, Venezuela, Western Samoa, Yugoslavia, Argentina, Australia, Bahamas, Botswana, Burma, Canada, Chile, China, Colombia, Costa Rica, Cyprus, Dominican Republic, Egypt, Fiji, Ghana, Greece, Guatemala, Guinea, Guyana, Iceland, India, Indonesia, Ireland, Israel, Laos, Lesotho, Mali, Mauritius, Mexico, New Zealand, Nicaragua, Nigeria, Norway, Panama, Philippines, Senegal, Sierra Leone.

Abstaining: Sri Lanka, Switzerland, United Republic of Tanzania, Upper Volta, Uruguay, Zaire, Zambia, Afghanistan, Austria, Bahrain, Bhutan, Bolivia, Burundi, Congo, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Ethiopia, Finland, Honduras, Ivory Coast, Jamaica, Kenya, Khmer Republic, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Malaysia, Malta, Mauritania, Nepal, Netherlands, Pakistan, Paraguay, Portugal, Qatar, Republic of Korea, Republic of Viet-Nam.

The Tunisian appeal against the President's ruling was rejected by 50 votes to 38, with 39 abstentions.

53. Mr. BEESLEY (Canada), introducing the working paper sponsored by the delegations of Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway (A/CONF.62/L.4), said that it embodied a broad conceptual approach to the fundamental problems of the law of the sea and was intended as a framework for discussion. The paper was being introduced in plenary not only because the subject went beyond the mandate of any one Committee, but also, and perhaps more compellingly, because the half-way point of the Conference had come without agreement having been reached on a single draft article. The working paper was being put forward as a possible basis for negotiations.

54. The countries which had sponsored the working paper were from widely separated geographical regions and their approaches covered a broad spectrum of views on the basic issues facing the Conference. Although all the sponsors were coastal States, their concerns were diverse: some had important shipping interests and others no mercantile fleet; some were dependent upon their coastal fisheries and others fished in distant waters; some had broad continental shelves and others no geological shelves; some had for many years adhered to the 200-mile limit and others to the 12-mile limit; and some were wholly archipelagic while others were not. Most important of all, the group of sponsors included both developed and developing countries.

55. While a broad range of interests was represented in the working paper, the sponsors nevertheless recognized that there were other interest groups with which negotiations should begin as soon as possible. They wished to stress that the document was not intended to replace any of the proposals they had made earlier in the Conference, and was being presented without prejudice to their declared positions and did not necessarily reflect their final positions.

56. It was the view of the sponsors and of many other delegations which he had consulted that, if the Conference was to produce any concrete results, certain broad trends evident in the deliberations of the sea-bed Committee and the discussions at the Conference should be reflected in the form of basic articles on which agreement should be sought before the end of the session. It was for that reason that the sponsors had attempted to reflect in the paper the fundamental concepts which would ultimately be embodied in the future convention of the law of the sea.

57. The point of departure of the sponsors and those with whom they had collaborated was that the existing law of the sea was incomplete, inadequate and anachronistic. Indeed, there seemed to be general agreement among the States represented at the Conference that there must be a radical restructuring of existing law in order to ensure a peaceful world and to avoid the further deterioration of the present chaotic situation of conflicting claims, counter-claims and disputes.

58. The present law of the sea was based on two seemingly mutually exclusive principles, namely the principles of sovereignty and of freedom of the high seas. While it was obvious that neither of those principles could be abandoned entirely, it was equally clear that a law of the sea based solely on those principles no longer sufficed. It was the firm conviction of the sponsors of the working paper that the law of the future must be based on new and imaginative concepts, such as the economic zone, the patrimonial sea and the common heritage of mankind while at the same time retaining those principles which were still relevant in today's world.

59. The working paper was based on the principle of the 12-mile territorial sea linked organically to an economic zone or patrimonial sea extending 200 miles from the baselines of the territorial sea. Thus, the traditional concept of a relatively narrow territorial sea was retained, but it was linked to an extension of the coastal State jurisdiction, as reflected in the economic zone and patrimonial sea proposals. Those proposals each embodied three fundamental jurisdictions essential to the coastal State in today's world: sovereign rights over the living resources of the sea, sovereign rights over the sea-bed, and the essential rights and duties required for the preservation of the marine environment. In addition to those three basic forms of jurisdiction, the two proposals also embodied the concept of coastal State regulation of scientific research within the economic zone or patrimonial sea. The working paper was based upon that economic zone-patrimonial sea concept.

60. Another major trend which was developing at the Conference was reflected in the paper, namely the doctrine of archipelagic waters both for oceanic archipelagos and for coastal States with off-lying archipelagos. As in the case of the economic zone-patrimonial sea concept, only the basic principles were spelled out. It would be noted, for example, that while the principle of innocent passage through archipelagic waters was embodied in the draft articles, further articles would be required to spell out the precise régime and rules of passage through specified sea lanes of the archipelagic waters, which the sponsors felt should be left in abeyance so as not to prejudge the manner in which the closely related issue of the rules of passage through international straits would be resolved.

61. With a view to maintaining relevant aspects of the principle of the freedom of the high seas, certain articles were directed to ensuring the necessary freedom of navigation in the

economic zone-patrimonial sea, subject to the exercise of coastal States of their rights within the area. Further articles had been included to protect other users of the sea, on the one hand, and the coastal State, on the other hand, from interference with the exercise of their respective rights in that area.

62. With regard to the reservation of the sea-bed for peaceful purposes—a question exclusively within the mandate of the plenary—article 18 provided that the coastal State would ensure that any exploration and exploitation activity within its economic zone was carried out exclusively for peaceful purposes. Further articles would be required in respect of the economic zone on such issues as fisheries and the preservation of the marine environment.

63. The doctrine of the continental shelf, which was dealt with in article 19 of the working paper, reflected customary, as well as conventional, international law. It was both a legal and geomorphological concept and article 19 was intended as a basis of discussion to replace the elastic and open-ended exploitability criterion. The sponsors had drawn on the language of the 1969 decision of the International Court of Justice (ICJ) in the North Sea Continental Shelf Case.[1] Although they were fully aware that some States had questioned the acquired rights of coastal States to the edge of the continental margin, they believed that it would be unrealistic and inequitable to ignore the legal position of coastal States which had long ago established their sovereign rights to the edge of the continental margin through State practice, legislation, the issue of permits, bilateral agreements and even incorporation into their constitution. The ICJ decision was significant in that it referred to the natural prolongation of the land territory of the coastal State in more than half a dozen cases. For States which had legislated to that effect, the issue was one of territoriality and national integrity. Without prejudice to further negotiations on the question of the delimitation of the continental shelf, the sponsors of the working paper had considered it essential to include article 19.

64. In the working paper, the sponsors had recognized the need for equitable rights of access for nationals of developing land-locked and geographically disadvantaged States to the living resources of the exclusive economic zones of neighbouring coastal States and would shortly be presenting articles to that effect. Before doing so, they hoped to receive the views of the land-locked and geographically disadvantaged States themselves.

65. Throughout the paper a functional approach had been adopted to each of the issues facing the Conference. It was quite clear that none of those basic issues would be resolved unless there was negotiation in good faith with the objective of reaching equitable solutions, acceptable to all. The sponsors were not suggesting that the working paper provided the total answer to all the problems facing the Conference. They did, however, feel very strongly that there could be no successful Convention which did not reflect in one way or another the basic approach embodied in the working paper, an approach shared by a very large number of States.

66. Mr. ZEGERS (Chile) said that the working paper introduced by the representative of Canada was intended to provide the Conference with formulations on some of the main issues to be resolved. Its main purpose was to facilitate agreement and to make it possible, if generally approved, to sketch out a political solution which would be a package deal. If the articles proposed in the working paper were supplemented by provisions relating to the international sea-bed régime, straits used for international navigation and the high seas, all the main issues facing the Conference would be covered.

67. The working paper—which reflected a wide range of interests—defined the three areas of national jurisdiction, namely, the territorial sea, the economic zone and the continental shelf. He would confine his observations to the second of those areas.

68. The economic zone or patrimonial sea was an area within the jurisdiction of the coastal State, over which the coastal State exercised sovereign rights of a mainly economic nature up to a distance of 200 miles, without prejudice to the freedoms of navigation and overflight. Chile had been the first State to proclaim such a zone in 1947 and had reaffirmed its jurisdiction over the 200-mile area in the Declaration of Santiago of 1952.

69. In the economic zone, which would extend for 188 miles beyond the outer limits of the territorial sea, the coastal State would exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed and subsoil and the superjacent waters. The language used in the working paper was very similar to that employed in the Convention on the Continental Shelf[2] and reflected the notions of exclusive jurisdiction and control by the coastal State for specific purposes. The draft articles also referred to such rights and duties of the coastal State in the economic zone or patrimonial sea as the preservation of the marine environment, the conduct of scientific research and the power to authorize artificial installations. Under article 14 of the working paper, freedom of navigation and overflight would be subject to the exercise by the coastal State of its rights within the area.

70. The concept of the exclusive economic zone must be integrally preserved if it was to be internationally acceptable. If diluted, it would not satisfy the vast majority of States.

71. As the representative of Canada had explained, the sponsors had recognized in the working paper the need to provide for equitable rights of access for nationals of developing land-locked and geographically disadvantaged States. They proposed that the future convention should delineate the general principles of such access and leave the details to be worked out in regional, subregional and bilateral agreements.

72. The representative of Canada had already outlined the scope of the articles on the continental shelf, which was defined on the basis of legal and geomorphological criteria. That definition reflected the criterion of exploitability, which was part of international customary law, and the acquired rights it connoted.

73. Articles 8 and 10 of the working paper expressly provided that the legal régime of the archipelagic States should not affect the established régime concerning coastlines deeply indented and cut into and the waters enclosed by a fringe of islands along the coast. Article 4, which also referred to that régime, was substantially the same as its counterpart in the Geneva Convention on the Territorial Sea and the Contiguous Zone.[3]

74. Mr. ENGO (United Republic of Cameroon) said that his delegation had had the impression that the question under discussion was the right to issue document A/CONF.62/L.4 and the right of the Canadian representative to make a brief introductory statement, on the understanding that there would be no debate and that the document would be referred to the appropriate Committees. There now appeared to be a list of speakers, namely the sponsors of the document, and despite the President's ruling, there seemed likely to be a one-sided debate. Could the President assure his delegation that there would be no more statements at the present meeting and that the sponsors would speak in the Committees?

75. The PRESIDENT said that he, too, was dismayed at the turn of events. He could not refuse the other sponsors the right to speak, but he appealed to them to make their statements in the appropriate Committees and not to speak at the present meeting.

76. Mr. YANKOV (Bulgaria) said that he agreed with the views of the representative of the United Republic of Cam-

[1] *North Sea Continental Shelf, Judgment, I.C.J. Reports 1969*, p. 3.

[2] United Nations, *Treaty Series*, vol. 499, p. 312.

[3] *Ibid.*, vol. 516, p. 206.

eroon. He also asked the President whether he intended to allow introduction and discussion in the plenary meeting of the additional articles referred to in the foot-notes to articles 7, 13, 18 and 19 of the document.

77. Mr. EVENSEN (Norway), Mr. TEMPLETON (New Zealand), Mr. JAGOTA (India), Mr. TELLO (Mexico), Mr. GAYAN (Mauritius), Mr. ANDERSEN (Iceland) and Mr. ANWARSANI (Indonesia) consented, in the light of the appeal by the President, to withdraw their names from the list of speakers on the understanding that they would be free to make statements on the draft articles when they were considered in the Second Committee.

78. Mr. BEESLEY (Canada), replying to the question raised by the Bulgarian representative, said that the sponsors would introduce in the plenary the various additional articles referred to in the working paper only if more than one Committee was involved.

79. The PRESIDENT, in replying to a question put by the representative of Gambia, said that there would be no discussion of the draft articles in document A/CONF.62/L.4 until the Second Committee had considered them.

Invitation to national liberation movements recognized by the Organization of African Unity or by the League of Arab States to participate in the Conference as observers (*concluded*)*

80. Mr. CISSE (Senegal) requested that the Seychelles Democratic Party, a national liberation movement recognized by the Organization of African Unity, should be asked to participate in the Conference. He said that its name had been inadvertently omitted from the list drawn up previously.

81. The PRESIDENT said that the Secretariat had noted the Senegalese representative's request and would comply with it.

The meeting rose at 1.15 p.m.

*Resumed from the 40th meeting.

47th meeting

Thursday, 1 August 1974, at 9.35 a.m.

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

Expression of sympathy in connexion with the recent floods in Bangladesh

1. The PRESIDENT said that Bangladesh had been struck by the worst floods in living memory just at the time when it was making a desperate effort to restore its shattered economy. Speaking on behalf of the entire Conference, he extended to the Government and people of Bangladesh and to the relatives of those who had lost their lives in the calamity his sincerest condolences. He hoped that the United Nations and the nations of the world would do all in their power to help Bangladesh recover from the disaster, repair the colossal damage that had been caused and accelerate the process of reconstruction.

2. Mr. RASHID (Bangladesh) thanked the President and the Conference for the expression of sympathy to his afflicted people. He hoped that, with the aid and co-operation of the international community, his country would soon be able to recover from the disaster.

3. The PRESIDENT said that a message of condolence would be sent, on behalf of the entire Conference, to the Government of Bangladesh.

4. Mr. CHOWDHURY (Bangladesh) expressed his delegation's deep appreciation for the message of sympathy the international community had decided to send to the Government and unfortunate people of Bangladesh. Some 15 million people had suffered hardship as a result of the floods, thousands of miles of roads and river embankments had been affected, and many thousands of houses had been destroyed and damaged. That was some indication of the magnitude of the calamity.

5. He would be grateful if leaders of delegations could inform their Governments about the tragic situation of the people of Bangladesh and the statements expressing sentiments of human solidarity and help from the United Nations family that had been made during the meeting. His Government was doing all it could but the situation called for massive international help, and he was grateful for the expression of sympathy and support from the Conference.

The meeting rose at 9.40 a.m.

48th meeting

Wednesday, 7 August 1974, at 9.25 a.m.

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

Progress of work: statements by the Chairmen of the Main Committees (*concluded*)

1. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, said that his Committee had come to the end of the second phase of its work. It had considered, at its informal meetings, the draft articles in document A/CONF.62/C.1/L.3, which, he was happy to note, provided the framework from which final treaty articles would emerge. That document was unfortunately still plagued with alternative texts, and certain fundamental questions had to be resolved before those alternatives could disappear. The most important remaining problem, that of who would exploit the international zone, had been attacked in all its aspects.