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130th Plenary meeting

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PLENARY MEETINGS

130th meeting

Monday, 28 July 1980, at 5.10 p.m.

President: Mr. H. S. AMERASINGHE

Organization of work

1. The PRESIDENT stressed the decisive nature of the second part of the ninth session and expressed the hope that the Conference would reach agreement on the substance of the proposed convention.

2. With regard to the recommendations adopted by the General Committee concerning the organization of work, he said that the first two weeks of the second part of the ninth session would be devoted to negotiations on the outstanding issues in accordance with whatever procedure proved best suited to the circumstances. Parallel with those negotiations, discussions would continue in closed plenary meetings on the general and final clauses and on the preparatory commission. The general debate would open at the beginning of the third week and speaking-time would be limited to 15 minutes. It was important that matters already settled should not be brought up for further discussion. After the general debate, the negotiating text would be revised for the third time.

3. At the present meeting, the Chairman of the Group of 77 would be making a statement, on behalf of the Group, on United States legislation relating to the exploitation of the resources of the international sea-bed area, which were the common heritage of mankind.

4. He (the President) had held consultations with the Chairmen of the three committees and with the Chairman of the Drafting Committee on the organization of work. In order to accelerate the negotiating process, delegations should be informed of the arrangements made concerning the organization of work and the negotiating framework. Negotiations on outstanding issues would be conducted within *ad hoc* groups, while matters within the competence of the First Committee would again be dealt with by the working group of 21, which would have to identify those still to be negotiated and decide on the best way of negotiating them. Any group engaged in negotiations should communicate the results periodically—twice a week—to himself and to the Chairman of the committee concerned. Such summaries would be of an informal nature and would be intended both to keep himself and the chairman abreast of developments and to help in coordinating the work of the Conference.

5. The Drafting Committee had met from 9 to 27 June 1980 and the report would appear in document A/CONF.62/L.57/Rev.1. Representations had been made concerning the inclusion in the second revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.2 and Corr.2-5) of certain provisions relating, for instance, to the delimitation of the territorial sea between States with opposite or adjacent coasts. The groups of delegations concerned should examine the question and inform both him and the chairman of the committee concerned how the relevant negotiations were to be conducted.

6. Whatever decisions were eventually taken, the informal composite negotiating text was, as its name indicated, a negotiating text and not a negotiated one. Its status was no different from that of the preceding texts, so delegations which were not satisfied with the solutions set out in the second revision could pursue the negotiations as they deemed fit. Similarly, the negotiations relating to the final clauses would have to be pursued on whatever basis was deemed appropriate by the delegations concerned.

7. Early in the session, the Chairman of the group of legal experts on final clauses would be introducing a report on the negotiations on the final clauses. If necessary, the Conference would then decide how those negotiations should be pursued. It would also have to consider the Argentine proposals concerning the settlement of disputes. With regard to the general provisions, it would continue to examine various proposals concerning the violation of rights and other issues listed in the President's report (A/CONF.62/L.53 and Add. 1).[1] It would be able to study some of the final clauses forthwith at closed plenary meetings, but other issues would have to be left until later.

8. In conclusion, he requested the participants to endorse the recommendations made by the General Committee.

9. Mr. KOZYREV (Union of Soviet Socialist Republics) considered that, in accordance with the practice followed hitherto, those recommendations should be made in writing and distributed to delegations in a Conference document. That procedure had always proved satisfactory and he hoped it would be continued.

10. The PRESIDENT said that he would accede to the request by the Soviet representative. In the meantime, he suggested that participants should endorse the General Committee's recommendations, on the understanding that they would be able to request clarification on any given point once the text had been issued.

It was so decided.

Welcome to the Republic of Zimbabwe

11. Mr. KOROMA (Sierra Leone) said that the Heads of State and Government of the member countries of the Organization of African Unity (OAU) had, at their recent summit meeting, requested the African group of States to sponsor the admission of the Republic of Zimbabwe to the Conference on the Law of the Sea. The African group was extremely proud to hail the accession of the Republic of Zimbabwe to independence and national sovereignty, and to pay tribute to the sacrifices made by all who had struggled to achieve their freedom. Zimbabwe's independence showed that the position adopted by the African group since the beginning of the Conference had been correct. It also testified to the unceasing efforts by the Organization of African Unity and all peace-loving countries to liberate the entire African continent. Zimbabwe had now become the fiftieth State member of the Organization of African Unity. Furthermore, representatives of the Patriotic Front had consistently participated in the preparation of the convention on the law of the sea. It was therefore an honour for his delegation to request all the States participating in the Conference to recognize the Republic of Zimbabwe as a member of the Conference.

12. The PRESIDENT said that, in accordance with the relevant General Assembly resolutions, Zimbabwe automatically became

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIII (United Nations publication, Sales No. E.81.V.5).

a participant since it had been admitted to membership of a specialized agency. On behalf of all participants, he welcomed the delegation of Zimbabwe and expressed his conviction that that country would make a useful contribution to the work of the Conference.

Questions concerning unilateral legislation on the resources of the sea-bed

13. Mr. WAPENYI (Uganda), speaking as Chairman of the Group of 77, said that the Group's position on unilateral national legislation or other action relating to the exploration and exploitation of the sea-bed area beyond the limits of national jurisdiction had been put on record on several previous occasions. The Chairman of the Group had expressed the Group's views to the Conference on 15 September 1978[2] and 19 March 1979.[3] In addition, the Ministers of the States members of the Group, at their meeting in New York, had adopted a resolution on that question on 29 September 1979. The Group now reiterated its position as contained in those statements and in that resolution.

14. The Group viewed with grave concern the recent enactment of national legislation by the United States of America governing the exploration and exploitation of the sea-bed area beyond the limits of national jurisdiction. Such legislation was contrary to international law and was therefore incapable of giving rise to any rights whatsoever.

15. A comprehensive convention on the law of the sea was being negotiated in the interests of maintaining international peace and security and promoting co-operation and mutual understanding among nations. A régime for the sea-bed area beyond national jurisdiction, established by the international community and based upon the principle that that area and its resources were the common heritage of mankind, was central to those negotiations. Any action taken outside the framework of the Conference or the threat of such action was in breach of the principle of good faith in the conduct of negotiations, was contrary to the procedure of consensus contained in the gentleman's agreement, seriously jeopardized the progress so far achieved at the Conference and was prejudicial to the prospects for the early adoption of a comprehensive convention.

16. The Group of 77 condemned that illegal assertion of rights by the United States Government over the international area of the sea-bed. It protested against the said legislation and urged all Governments to do likewise. It called upon all Governments to reject such legislation and not to recognize any activities which that legislation purported to authorize. It further called upon all Governments to refrain from similar action. It reserved the right to take any other appropriate action to repudiate such legislation and to safeguard the resources of the international sea-bed area, which were the common heritage of mankind.[4]

17. Mr. RICHARDSON (United States of America) said that the United States Government remained committed to pursuing in good faith the goal of an early and successful outcome of the Conference; it maintained the view that a convention on the law of the sea was by far the best legal framework for conducting deep sea-bed mining activities. The legislation on deep sea-bed mining enacted by the United States was consistent with that objective and was expressly interim in nature. When a treaty entered into force with respect to the United States, it would automatically supersede the legislation. Moreover, the legislation placed a moratorium on commercial mining until 1 January 1988; that moratorium would allow ample time for the convention to come into force.

18. The legislation in question had been enacted in order to prevent a further decline or complete disintegration of the United States deep sea-bed mining industry. If such a decline were to occur, a decade or more would undoubtedly elapse before the level of technology needed for commercial mining could be regained. It was clearly in the common interest to keep the industry alive. Unless technology continued to develop, it would be a very long time before countries could reap the benefits they sought from sea-bed mining under a convention.

19. He did not consider it useful to reopen the debate on the legality of deep sea-bed mining under international law. The United States position on the matter had already been stated on a number of occasions: sea-bed mining beyond the limits of national jurisdiction remained free until it was regulated by an international agreement in force. That position was shared by a number of countries whose nationals were at present engaged in developing deep sea-bed mining technology.

20. If the Conference achieved successful results, the practical question of commercial mining outside the treaty régime would not arise. His delegation would continue to direct all its energies to ensuring the success of the Conference's efforts to extend the rule of law over more than two thirds of the earth's surface. Its negotiating objectives remained precisely as they had been prior to the enactment of the legislation in question. It would support provisions designed to encourage the early entry into force of a convention which all States could ratify and which would ensure the orderly management of the world's ocean resources for the benfit of all mankind.[5]

21. Mr. SHERMAN (Liberia) endorsed the statement made by the Chairman of the Group of 77 on the unilateral legislation enacted by the United States. At the present stage of the Conference's work, such action was contrary to the interests of the negotiations and could bring to nought the progress so far achieved. Action of that kind with respect to deep-sea mining beyond the limits of national jurisdiction was contrary to the well-established principles of the negotiations; it would adversely affect the results of the Conference and might even prejudice the economic interests of the international community.

22. In the spirit of the Declaration of Principles set forth in General Assembly resolution 2749 (XXV), in accordance with which the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, and the resources which they contained were the common heritage of mankind, the African countries called upon all Governments to show the greatest restraint and refrain from unilateral action that could prejudice the successful outcome of the Conference. The African countries continued to abide by the Organization of African Unity resolution declaring that the sea-bed and the ocean floor and their resources beyond the limits of national jurisdiction were the common heritage of mankind.

23. Mr. SANTOS (Philippines), speaking on behalf of the group of Asian States, expressed serious concern about the legislation on deep-sea exploration and exploitation adopted by the United States. He fully shared the views expressed on the subject by the Chairman of the Group of 77. The United States Government's enactment of that legislation, which was contrary to the Declaration of Principles governing the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, adopted by the General Assembly at its twenty-fifth session in 1970, was a deplorable step, since it would create an unfavourable atmosphere for the smooth conduct of negotiations and the conclusion of the convention.

24. Mr. BALLESTEROS (Uruguay) said that the Latin American States, on whose behalf he was speaking, were fully aware of the need to ensure that the negotiations, which had now reached a crucial stage, were not jeopardized by external interference or pressure. Those States, which intended to continue to participate in the negotiations and, as they had done hitherto, fully to respect the principle of good faith, could not condone the attitude of the United States of America. By enacting a law

[2] *Ibid.*, vol. IX (United Nations publication, Sales No. E.79.V.3), 109th meeting.

[3] *Ibid.*, vol. XI (United Nations publication, Sales No. E.80.V.6), 110th meeting.

[4] This statement was subsequently issued *in extenso* under symbol A/CONF.62/100.

[5] This statement was subsequently issued *in extenso* under symbol A/CONF.62/103.

claiming to regulate deep-sea exploration and mining beyond the limits of national jurisdiction, the United States Government had violated the principle of consensus followed in the Conference and had taken a step that was contrary to international law, under which the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and the resources of that area, were the common heritage of mankind and, as such, could be exploited only in accordance with an international régime, and under no circumstances on a unilateral basis.

25. Mr. GOERNER (German Democratic Republic) said that the States of Eastern Europe, on whose behalf he was speaking, shared the deep concern of the great majority of participants in the Conference about the adoption by the United States of legislation on deep-sea mining. They unreservedly supported the statement made by the Chairman of the Group of 77, who had deplored the adoption of that unilateral measure contrary to the 1970 Declaration of Principles, which provided that all activities regarding the exploration and exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, should be governed by the international régime to be established. In the view of the group of Eastern European States, no State, individual or legal entity could acquire any rights over that area or its resources, in particular through unilateral legislative measures.

26. It was also regrettable that that legislation had been enacted at a time when the Conference was entering its final phase and when, after many years of often difficult negotiations, compromise solutions had been worked out, as was apparent from the informal composite negotiating text, on the basis of which it should be possible to draw up a convention consonant with the legitimate interests of all political and social systems.

27. The group of Eastern European States would continue to make an active contribution to the work of the Conference so that the outstanding problems might be solved before the end of the current session, despite the legislative measures which had been taken unilaterally by certain States and which, if care was not taken, could call in question the results obtained hitherto and jeopardize the further conduct of negotiations.

28. Mr. ARIAS SCHREIBER (Peru), speaking on behalf of the delegations of Colombia, Chile and Ecuador as well as his own delegation, said that those delegations had transmitted to the President of the Conference the text of the declaration made on 22 July 1980 by the general secretariat of the South Pacific Commission concerning the adoption by the United States of legislation on deep-sea mining beyond the limits of national jurisdiction. They had requested that the text should be distributed as a Conference document (A/CONF.62/101).

29. Participants in the current session would therefore be aware of the exact position of members of the South Pacific Commission concerning the United States decision, which was bound to have serious consequences.

30. Mr. KOROMA (Sierra Leone) said that, by enacting legislation which purported to regulate the exploration and exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction, the United States had violated the Declaration of Principles adopted on the subject by the General Assembly, and, in particular, the basic principle set forth in that Declaration to the effect that the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, together with the resources of that area, were the common heritage of mankind. Sierra Leone could not condone the fact that a member of the international community had refused to comply with a decision adopted by the great majority of States Members of the United Nations and had decided to appropriate deep-sea resources on the pretext that it had the necessary technology and expertise. Furthermore, the attitude of the United States Government, which, by enacting the above-mentioned legislation, at a time when the Conference was entering its final phase, threatened to nullify all the efforts made so far, gave rise to doubts about the validity of any convention that might be drawn up under pressure from any particular country.

31. Mr. JAGOTA (India) said that despite the concern voiced by the Group of 77, in particular, as well as by the USSR, China and a number of Scandinavian countries, and despite the statements of the Ministers for Foreign Affairs of the States members of the Group of 77, who on two occasions, in September 1979 and March 1980, had asserted that with regard to the exploration and exploitation of the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction, any measure taken unilaterally by a State would have no validity in international law and had appealed to all States to refrain from taking such measures and make every effort to ensure that the Conference was brought to a speedy conclusion, the Government of the United States had in June 1980 enacted legislation which purported to govern the exploitation of the mineral resources of the sea-bed.

32. That act, which the United States was attempting to justify by invoking the principle of the freedom of the high seas, was contrary to international law, which provided that the resources of the sea-bed and the ocean floor, beyond the limits of national jurisdiction, were the common heritage of mankind and that they could be explored and exploited only in accordance with the international régime which the Conference was currently trying to establish. It was also contrary to certain provisions of the second revision of the informal composite negotiating text under which the mineral resources of the sea-bed could be explored and exploited only under a contract with the International Sea-Bed Authority; the United States legislation provided for the issue of exploration licenses as from 1 July 1981 and of exploitation permits as from 1 January 1988, and it appeared that licensees would be able to remove, process and sell 40 to 50 per cent of the resources from their mining sites every year even before 1 January 1988.

33. Furthermore, the United States legislation provided for a reciprocal understanding with other States which might enact similar legislation and with which the United States Government would conclude a separate convention if the Conference did not succeed or if the convention adopted by the Conference was not acceptable to it. Some States were now rumoured to be in the process of enacting similar legislation; such unilateral legislation was a source of serious concern and resentment to the Indian Government.

34. If sea-bed mining outside the boundaries of national jurisdiction was to benefit mankind as a whole, it must be regulated by the law of the sea being developed by the Conference with the active participation of all countries, and not by legislation adopted unilaterally by one country or another or by a small group of countries. By creating a new category of countries, namely, countries engaged in sea-bed mining, such legislation, which was contrary to international law, would further divide the members of the international community and would give rise to many complications and a certain amount of confusion since it would henceforth be necessary to distinguish between activities governed by international law and mining regulated by domestic legislation based on the principle of the freedom of the high seas. In order to avoid that type of problem and reach a solution acceptable both to the industrialized States and to other States, it was pointless to state that such unilateral legislation was provisional or transitional. It was necessary to work actively for the success of the Conference.

35. Mr. DREHER (Federal Republic of Germany) said that the Parliament of his country had adopted a law designed to regulate and control activities by its nationals on the sea-bed beyond the limits of national jurisdiction. He nevertheless wished to assure participants that the legislation was in no way intended to disturb the successful course of the current negotiations and that his Government was as determined as ever to reach agreement on the international sea-bed régime which, after its entry into force for the Federal Republic of Germany, would supersede the national legislation. An international régime based on the consensus of the international community would, in the opinion of his Government, be a far better solution than national legislation. However, until a generally accepted international régime could take effect, it seemed desirable and even necessary to have regulations under

which the deep-sea mining industry could go ahead with exploratory activities in the interest of industrial progress and, in the last analysis, for the benefit of the international community as a whole. Furthermore, by forbidding all economic exploitation before 1988, the legislation adopted by the Federal Republic of Germany left ample time for the Conference to put a generally acceptable international régime into effect.

36. His delegation could not accept the contention that without such an international régime any activity on the international sea-bed by States or their nationals would be illegal. There was nothing in international law which made such activities illegal if they were undertaken with due regard to the rights of other States and to existing international commitments.

37. In that connexion, the Declaration of Principles governing the international sea-bed was essentially a policy statement which had not brought about any change in international law or, in particular, in the legal régime of the high seas, to the effect that States or their nationals were no longer allowed to exercise their right of free access to the resources of the international sea-bed.

38. He fully associated himself with the views expressed by the representative of the United States and was firmly convinced that through common effort and mutual understanding on all sides agreement could be reached on a generally acceptable régime concerning the so-called "Area".

39. Mr. YU Peiwen (China) said that his Government was seriously concerned about the legislation adopted by the United States in June 1980 concerning the exploitation of the mineral resources of the sea-bed and ocean floor beyond the limits of national jurisdiction. The adoption by the United States of a law which was contrary to the Declaration of Principles governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction could well have serious repercussions on the work of the Conference. His delegation nevertheless hoped that all the participants would work actively to solve the outstanding problems in order to reach rapid agreement.

40. Mr. TORRAS DE LA LUZ (Cuba) said that his delegation fully shared the views expressed by the Chairman of the Group of 77, to which his country belonged, and by the representatives of Sierra Leone and India. Contrary to what had been asserted by the representative of the United States, the act adopted by the United States Government went against the objectives pursued by the Conference. Article 118 of the act in question provided for the possibility of holding negotiations with countries which had enacted similar legislation with a view to establishing a certain amount of co-ordination and ultimately setting up a mini-convention which would compete with the convention that the participants in the Conference were trying to devise. Furthermore, it was apparent from the provisions of article 201, which was aimed at preserving the rights of United States nationals engaged in sea-bed mineral exploration and exploitation beyond the limits of national jurisdiction, that when the convention entered into force the United States enterprises would already have obtained authorization to explore those resources and exploit them commercially. The International Authority would thus be faced with a fait accompli.

41. Whatever the real objectives of the United States Government might be, there could be no doubt that the signing of the international convention was not at all in the interests of the large monopolies. Given that state of affairs, it was absolutely essential that all countries, and particularly the developing countries, should redouble their efforts to ensure the speedy adoption of the Convention.

42. Mr. KIM CHUNG (Viet Nam) said that his delegation wholeheartedly endorsed the statement made by the representative of Uganda on behalf of the Group of 77 concerning the legislation unilaterally adopted by the United States. That legislation constituted a flagrant violation of international law since it ran counter to the principle set forth in the Declaration of Principles contained in General Assembly resolution 2749 (XXV) under which the Area and the resources it contained were the common heritage of mankind and should be exploited in the interest of all peoples and countries, and particularly the developing countries.

43. The act adopted unilaterally by the United States, together with the informal working paper on the protection of investments during the transition period which had been submitted by the United States delegation on 2 April 1980 with a view to granting exorbitant rights to the powerful United States companies, clearly showed that the country's only concern was to defend its selfish interests.

44. At the present stage of the work of the Conference, when all delegations must redouble their efforts and display understanding in order to reach a universally acceptable agreement on all the crucial outstanding questions, it would be utterly unacceptable for some States to seek to renew their pressure on the participants. The Major Power which was flouting the principle of the sovereign equality of States and the principle of good faith in international negotiations and was seeking to impose unacceptable solutions by resorting to threats and by confronting the international community with a fait accompli must abandon that practice which, in the last analysis, would only succeed in jeopardizing the results of many years of effort.

45. Mr. KOZYREV (Union of Soviet Socialist Republics) said that the enactment by the United States of legislation contrary to the Declaration of Principles governing the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and to the decisions of principle adopted within the framework of the text of the informal composite negotiating text could have unfortunate consequences for the work of the Conference.

46. Not only had the United States failed to await the implementation of the convention before adopting an act governing the exploration and exploitation of the mineral resources of the sea-bed beyond the limits of national jurisdiction, but the United States delegation also intended to take steps to ensure the adoption of the proposals relating to the protection of investments which it had submitted at the first part of the ninth session of the Conference. It was true that there were no provisions in international law prohibiting the exploitation of the mineral resources of the sea-bed beyond the limits of national jurisdiction, but traditional practice required that for political and moral reasons countries should refrain from taking unilateral measures. The argument that commercial mining would not begin until 1988 was not valid because by that time private enterprises would have developed their activities in that field to such an extent that it would be difficult to impose international regulations. Moreover, the act adopted unilaterally by the United States might encourage other countries to follow suit and open the way for exploitation of the sea-bed in a manner contrary to the general interest. His country therefore fully shared the concern expressed by the Chairman of the Group of 77 and by representatives of a number of countries, and undertook to renew its efforts to ensure that, in spite of the additional difficulties created by the United States decision, it would be possible to reach a consensus and devise an instrument for the equitable settlement of all problems relating to the exploration and exploitation of the resources of the sea-bed.

47. Mr. BEESLEY (Canada) said that, in the opinion of his delegation, the legislation enacted by the United States was unnecessary, unjustifiable and untimely. It ran counter to the concept of the "common heritage of mankind" and constituted a violation of the Conference's fundamental principle of consensus. His delegation considered that the arguments put forward to justify the enactment of the legislation were not valid and it failed to understand the underlying reasons which had prompted the United States to take such a decision at a time when the Conference was entering the final phase of its work. It shared the concern expressed by the great majority of delegations represented at the Conference, in particular with regard to articles 118, 201, 202 and 203 of the United States act. Particularly questionable, in its opinion, was the fact that participants were apparently being told what course to follow in relation to a number of questions, such as the protection of investments. There was certainly a better method, to which the United States delegation itself had

always tried to conform, and that consisted in negotiating in good faith in order to reach an equitable compromise. That was what participants must continue to do without prejudging the results of the Conference. His delegation associated itself with the appeal that other countries should not follow the example of the United States and should refrain from adopting unilateral legislation on a number of questions which could be resolved only by negotiation.

The meeting was suspended at 6.5υ p.m. and resumed at 7.05 p.m.

48. Mr. EL FATTAL (Syrian Arab Republic) said that he shared the views firmly expressed by the Chairman of the Group of 77 concerning the unilateral legislation enacted by the United States. That legislation seemed to him to be contrary to the objectives and principles of the Conference. He was surprised that the representative of the United States had spoken of "good faith". Could a super-Power be acting in good faith when it imposed unilateral legislation on the international community, claiming that such legislation was only transitional? By so doing, the United States was subjecting the participants to pressure which he, for his part, considered unacceptable as it jeopardized the successful conduct of negotiations and might prevent the objective of consensus from being attained. The United States Government promised that when an international agreement was concluded it would supersede national legislation, but from the moment profits accrued to the transnational or United States companies exploiting the resources of the sea-bed, there was every reason to believe that the United States would not renounce that legislation and that the so-called interim provisions which had just been adopted would become permanent. The United States was, in fact, placing its own interests before those of the great majority of other countries, a procedure which, in his view, was totally unacceptable.

49. The United States representative had said that the purpose of the recently enacted legislation was to avert a decline in the deep-sea mining industry. However, it would not be logical for other countries to become dependent on United States technology and, if the legislation was implemented, the developing countries would be the first to suffer.

50. Mr. POWELL-JONES (United Kingdom) felt obliged to place on record that the views of the Government of the United Kingdom on deep sea-bed mining which had been stated on earlier occasions had not changed. The United Kingdom did not consider legislation on deep sea-bed mining to be contrary to international law. That said, his delegation remained fully committed to the achievement of a generally acceptable convention on the law of the sea and hoped that the remaining negotiations would be completed successfully in accordance with the Conference timetable. He greatly hoped that delegates would not allow differing opinions on the question that had been raised to divert the Conference from the work in hand.

51. Mr. DE LACHARRIÈRE (France) said that, in his delegation's opinion, unilateral legislation on the exploration and exploitation of the sea-bed beyond national jurisdiction was not in itself contrary to existing international law and that there was nothing in contemporary international law to prohibit France from adopting legislation providing for the reasonable use of the sea-bed. However, the French Government considered that such national legislation constituted a last resort as compared with a satisfactory universal convention and that the best way for the Conference to react to unilateral legislation was to draft such a convention as speedily as possible.

52. Mr. NAKAGAWA (Japan) said that the legislation enacted by the United States Congress was of an interim nature and that its aim was to prepare national enterprises to exploit the resources of the sea-bed until such time as the convention on the law of the sea came into force. The legislation expressly provided that such exploitation was not to begin before 1 January 1988 and by that time the convention should have come into force.

53. His delegation shared the views expressed by the delegations of the United States, the Federal Republic of Germany, the United Kingdom and France, and considered that the problem of the lawfulness of what was called unilateral national legislation with regard to current international law did not arise in the case of the act adopted by the United States. It was convinced that that question should not delay negotiations during the current session and that all delegations would contine their efforts aimed at the speedy adoption of a convention on the law of the sea.

54. Mr. HAMOUD (Iraq) said that the arguments adduced by the delegation of the United States were far from convincing. In his opinion, the legislation enacted by the United States constituted a dangerous violation of the rules of international law. He found it curious that the legislation had been enacted at a time when the Conference was about to reach compromises on problems that had been considered insoluble.

55. The only explanation he found was that the United States had wanted to be of service to the monopolies rather than to work in the interest of mankind as a whole. All those who had fought against imperialism and colonialism could therefore only associate themselves with the protests which had been aroused by the adoption of national legislation contrary to international law.

56. Mr. VARVESI (Italy) reminded the Conference of his delegation's view that at the current stage of international law there was no provision which prohibited exploration and exploitation activities on the sea-bed, particularly if they were envisaged within the context of rules which took account of the work of the Conference. Nonetheless, his delegation continued to believe that agreement must be reached on a universal convention which could render superfluous the adoption, and in any event, the implementation of unilateral legislation.

57. The PRESIDENT said that, when the question of the possible enactment by the United States of unilateral legislation had first arisen, he had stated that there were limits to the patience of Governments and that participants should therefore try to reach agreement on a universally acceptable treaty in the shortest possible time. Considering that he was not called upon to state his views on the legal aspects and implications of such legislation, he had merely referred to the psychological effect it might have on the work of the Conference. The enactment of such legislation by the United States had given rise to serious doubts about the possibility that the Convention might be adopted by consensus. He sincerely hoped that such doubts would prove to be groundless. The chances of adopting by consensus a convention which could be ratified by all countries must be preserved, as must the hope of creating a stable and lasting legal order for the oceans which would make it possible to advance towards the establishment of a new international social, political and economic order based on justice and equity. In no circumstances should the results so far achieved be jeopardized if the Conference was to complete its work at the current session. In that connexion, it was encouraging to note that the United States representative had given an assurance that his delegation was determined to continue to negotiate in good faith in order to arrive at a consensus. He also noted with great satisfaction that even the delegations which were dismayed at the measures taken by the United States were still determined to pursue the efforts they were making to the same end.

58. Mr. OMAR (Libyan Arab Jamahiriya) said that although the question of unilateral legislation concerning the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction had been raised on a number of occasions in this Conference, the reaction thereto had never gone beyond the halls of the Conference. The delegation of the People's Socialist Libyan Jamahiriya suggests, therefore, that the Conference issue a statement denouncing the legislation enacted by the United States concerning the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction, demanding that it should freeze that legislation or refrain from implementing it until the Conference was able to approve the convention. The statement should also call upon the States not to follow the United States footsteps in enacting such legislation.

Organization of work

59. Mr. HAYES (Ireland) read out a letter addressed to the President of the Third United Nations Conference on the Law of the Sea on 30 May 1980 by the representatives of the following countries, which had sponsored document NG7/10: Algeria, Argentina, Bangladesh, Benin, Burundi, Congo, France, Iraq, Ireland, Ivory Coast, Kenya, Libyan Arab Jamahiriya, Madagascar, Maldives, Mali, Mauritania, Morocco, Nicaragua, Pakistan, Papua New Guinea, Poland, Romania, Senegal, Somalia, Suriname, Syria, Turkey, Venezuela and Viet Nam.[6] The text of the letter was as follows:

"1. The undersigned sponsors of document NG7/10 wish to state that they cannot accept the formulations of paragraph 1 of articles 74 and 83 as they appear in the second revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.2 and Corr. 2 to 5).

"2. In accordance with paragraph 10 of document A/CONF.62/62 of 14 April 1978,[7] any modifications or revisions to be made in the informal composite negotiating text should 'emerge from the negotiations themselves' and 'not be introduced on the initiative of any single person, whether it be the President or a Chairman of a committee, unless presented to the Plenary and found, from the widespread and substantial support prevailing in Plenary, to offer a substantially improved prospect of a consensus'.

"3. The sponsors of document NG7/10 submit that in carrying through the revisions of paragraph 1 of articles 74 and 83, the Presidential team (Collegium) has not given adequate attention to the above-mentioned conditions.

"4. It is the view of the sponsors of document NG7/10 that the new formulations as they appear in paragraph 1 of articles 74 and 83 'did not emerge from negotiations themselves' nor did those formulations receive 'the widespread and substantial support required in plenary to offer a substantially improved prospect of consensus'.

"5. The formulations as they appear in paragraph 1 of articles 74 and 83 were not considered in negotiating group 7 nor were they submitted to the group of sponsors of document NG7/10 and other supporting delegations in meetings with the Chairman of negotiating group 7.

"6. Whereas in negotiating group 7 both interest groups expressly indicated their willingness to negotiate on the basis of the formulation of paragraph 1 of articles 74 and 83 in the first revision of the informal composite negotiating text, the group of sponsors of document NG7/10 specifically rejected in the plenary debate the corresponding formulation now appearing in the second revision.

"7. Accordingly, the sponsors of document NG7/10 consider that the new formulation of paragraph 1 of articles 74 and 83 will not be helpful to future negotiations. Far from helping to achieve a consensus, the inclusion in the negotiating text of the formula of the Chairman of negotiating group 7 will only increase controversy and affect negatively the conclusion of our work."

60. After reading out the letter, the representative of Ireland recalled that, at the end of the first part of the session, it had been agreed in the Second Committee that the report by the Chairman of negotiating group 7 should be considered by that committee at the resumed session. He considered that a discussion of that report was necessary so that the work of the current session could be successfully completed and the procedures to be adopted in future could be examined.

61. The PRESIDENT said that he did not intend to authorize a discussion of the amendments made by the Collegium. In his opinion, delegations must negotiate on the basis of the texts which they considered to be most consistent with their interests.

62. With regard to the letter read out by the representative of Ireland, he said that, at the third session of the Conference, it had been decided not to distribute the observations made by delegations concerning informal texts. That letter could not therefore be distributed as an official document of the Conference.

63. Mr. LACLETA MUÑOZ (Spain) pointed out that negotiating group 7 had been set up by the plenary Conference in accordance with the recommendations made in document A/CONF.62/62 and that the matters which it was responsible for considering did not all come within the competence of the Second Committee. He also noted that, although the report by the Chairman of that negotiating group had been submitted to the Second Committee, it had been decided to refer the report to the plenary Conference for consideration. As the sponsors of document NG7/2, whom he represented, had not yet met, he was not in a position to speak on their behalf; his delegation nevertheless considered that that report should not be submitted for consideration by the Second Committee, since that would be a retrograde step. His delegation was, however, prepared to study, with the countries most directly concerned, any proposal relating to the continuation of work in an area which gave rise to some of the greatest difficulties.

64. Mr. OMAR (Libyan Arab Jamahiriya) supported the view expressed by the representative of Ireland concerning the report by the Chairman of Negotiating Group 7. The report should be considered by the Second Committee, of which negotiating group 7 was a subsidiary body.

65. Mr. CHARRY SAMPER (Colombia) said that he shared the view of the representative of Spain. He nevertheless wished to pay tribute to the objectivity and neutrality of the Chairman of negotiating group 7. With regard to the various amendments to the negotiating text, he considered that, in order to avoid any confusion, each new text should replace the previously existing one and that it was therefore necessary to negotiate on the basis of the revised version, regardless of the various opinions expressed. Of course, everyone must be able to state his point of view, but it was the second revision of the text that must serve as a basis for the negotiations.

66. The proposal by the representative of Ireland for the submission of the report of the chairman of negotiating group 7 to the Second Committee was, in his opinion, not acceptable because, as the representative of Spain had said, the matters dealt with by that Group were not all within that Committee's competence.

67. The PRESIDENT said that it was not the integrity of the Chairman of the negotiating group that was in question, but rather, the choice which the Collegium had seen fit to make concerning the wording of paragraph 1 of articles 74 and 83 with a view to reaching an agreement.

68. Mr. ATAIDE (Portugal) said that he wholeheartedly supported the view expressed by the representatives of Spain and Colombia because he considered that the submission of the report of the chairman of negotiating group 7 to the Second Committee would seriously jeopardize the chances of arriving at a consensus on the question of the delimitation of the maritime boundaries of States with opposite or adjacent coasts.

69. Mr. USHEWOKUNZE (Zimbabwe) thanked the President and delegations for the warm welcome they had given his country. There was no doubt that the Conference was dealing with matters which were of vital importance to his country and to all of mankind. Zimbabwe was a land-locked country and an important third-world producer of minerals, and his Government therefore took a keen interest in questions relating to the exploitation of the resources of the sea. He sincerely believed that those resources were the common heritage of mankind and that they should therefore be exploited in the interests of mankind as a whole. He hoped that the position of the United States would be condemned and that the work of the Conference would continue in a genuine spirit of negotiation. He wholeheartedly supported the statement made by the Chairman of the Group of 77.

The meeting rose at 7.55 p.m.

[6] The full text of this letter is reproduced at the request of the President of the Conference.

[7] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4).