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6th meeting

Tuesday, 16 July 1974, at 3.10 p.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

Statements on the international régime and machinery (continued)

1. Mr. RATINER (United States of America) said he wished to remind members that the mandate of the First Committee did not include the elaboration of treaty articles for the control of activities in the waters superjacent to the international sea-bed area by the régime and Authority. That matter fell more properly within the mandate of the Second Committee. He appealed to delegates to refrain from proposing such articles, so as to ensure the continued co-operative spirit of negotiation in the First Committee.
2. Mr. RANA (Nepal) said that the scope of paragraph 5 of the Declaration of Principles contained in General Assembly resolution 2749 (XXV) included the concepts of participation by all coastal and land-locked States in the establishment of the régime and Authority to govern activities in the international area, and of an equitable sharing of benefits. That resolution clearly indicated that the area governed by the international régime and the limits of national jurisdiction were interrelated. Inasmuch as participation in the international area was open to all States, the extent of national jurisdiction should not jeopardize the economic viability and potential of the area covered by the international régime. The international area should be as large as possible. He supported the idea of establishing an International Authority, but pointed out that it would be meaningless to do so unless the international area was economically viable. All States should be represented equally in the Authority; the land-locked States must have adequate and proportionate representation in the proposed Council and should participate in any decision on matters of substance involving their rights and interests.
3. The Authority should have comprehensive powers so as to ensure that the exploration, exploitation and management of marine resources would benefit all mankind. It should carry out the work of exploration and exploitation directly but, during an interim period, it could be authorized to work in collaboration with other specialized agencies or to grant licences to States, individuals or bodies corporate to carry out such work on a revenue-sharing basis.
4. The benefits derived from the international area should be shared by all States equitably, with particular consideration being given to the needs and interests of the least developed countries in accordance with General Assembly resolution 2749 (XXV).
5. As a land-locked country, Nepal attached great importance to the right of land-locked countries to free access to the international area. The coastal States should have no difficulty in providing transit facilities to ensure equal participation by land-locked countries in the work of exploring and exploiting the area.
6. Mr. PEDERSEN (Denmark) said that the recognition of the existence of an area of the sea-bed and ocean floor beyond national jurisdiction implied that internationally recognized criteria must be established to delimit the area precisely. Although his delegation had previously favoured a combined depth and distance criterion, the mapping of the sea-bed was not yet sufficiently complete to allow reliance on a depth criterion. Consequently, the adoption of a distance criterion of up to 200 miles from the baseline for delimiting the sea-bed area under national jurisdiction would be the most realistic approach. That approach would leave to the international community as well as to coastal States sizable areas of the continental slope and rise and would tend to counterbalance geographical differences between countries in respect of adjacent submerged land. One problem that might require special consideration was the possibility that some countries would be deprived of their rights under the Convention on the Continental Shelf¹ in respect of that part of the shelf extending beyond the 200-nautical-mile limit. The scope of the régime should include only the deep-sea area and its subsoil beyond national jurisdiction and not the superjacent waters.
7. Of the three systems of exploration for and exploitation of resources contained in the draft articles prepared by the working group of Sub-Committee I of the sea-bed Committee, his delegation favoured a mixed system under which the International Authority, States and private companies would all be given an opportunity to exploit marine resources. Although it might seem natural to confer exclusive rights of exploitation on the Authority, it had to be admitted that the technological skill and financial means required were available in only a few of the most developed countries. The régime must take that fact into account and must level out as fast as possible existing differences in capabilities. The system should provide for the transfer of technology to the Authority, possibly as a condition of granting licences. The distribution of revenues from the Authority should not begin before it had amassed sufficient capital for sea-bed exploitation. The licensing system proposed by the representative of the United Kingdom would ensure the orderly development of sea-bed resources and would reserve areas of the sea-bed for later exploitation by the Authority and by countries which did not yet possess the necessary technological or financial means.
8. Although his delegation's position on the competence and structure of the Authority was rather flexible, he emphasized that it should be concerned exclusively with exploration for and exploitation of the sea-bed resources of the international area. There seemed to be general agreement that the principal organs should be an assembly, a council, a secretariat and a tribunal. Every party to the international sea-bed convention should have one seat in the assembly, which should be the supreme organ of the Authority, competent to discuss any matter within its terms of reference and with power to discuss and outline the guidelines for its policy. The assembly should elect the members of the council and approve its budget and reports. Each member State should have one vote; decisions should be taken by a simple majority.
9. The composition of the council must reflect the diverse interests of States parties to the convention. There should be equitable geographical representation with special regard to the developing countries, and special provisions must be made for States that had established a sea-bed technology. To ensure due regard for the interests of coastal States in activities in their adjacent waters, countries with long coastlines or large shelf areas must be represented on the council. The council should have no powers other than those expressly conferred on it by the convention or the assembly. Its most important function would be to administer the licence system. Decisions on matters of substance should be taken by a two-thirds majority; some kind of cumulative majority might also be considered in

¹ United Nations, *Treaty Series*, vol. 499, p. 312.

order to secure the interests of one or several small groups of countries.

10. Mr. JEANNEL (France) observed that the Committee's task was made difficult by the fact that the subject of its discussions did not yet have concrete existence. No industry had yet extracted nodules from the sea-bed to convert them into useful metals. Nevertheless, if theory was to be translated into practice, abstract approaches must be compared with reality.

11. Two sets of problems were to receive prior attention from the Committee in its informal discussions: the economic implications of exploiting the resources of the sea-bed, and the drafting of rules to regulate mining in the area beyond national jurisdiction. He suggested that two other subjects should receive particular consideration: a more detailed exchange of views on the structure of the International Authority to administer the international régime, and the delimitation of areas in which exploitation could proceed. The Committee must consider whether all areas beyond national jurisdiction should be open for exploitation or extraction should be concentrated in one or more very specific areas. There was also the question whether parts of the areas defined should be reserved for future exploitation. The answers to those questions would undoubtedly make it possible to take into account the fact that the developing countries must be left attractive fields of activity for the time when they would acquire the necessary technology.

12. Mr. SORIANO (Philippines) said his delegation wished to raise two vital points: the limits of the international area, and the extent of the International Authority's participation in the exploration and exploitation of the resources of the sea-bed.

13. The extent of the international area was directly linked with the breadth of the territorial sea—an issue that had yet to be resolved. He reiterated his country's special interest in the matter, as set out in document A/AC.138/SC.II/L.15 (see A/9021 and Corr.1 and 3, vol. III, sect. 2). His delegation also sought recognition of its historical right to its territorial sea. The preservation of the political and economic unity and of the security of an archipelagic State, the preservation of its marine environment and the exploitation of its marine resources justified the inclusion of the waters inside an archipelago in the waters under the sovereignty of the archipelagic State and the recognition that those waters had special status.

14. The International Authority must be effective, it must function under a mandate given by all States, it should have authority to exploit resources directly, and its decision-making and legislative powers must not be subject to veto by any State. Its effectiveness would depend on its ability to ensure the orderly and safe development and rational management of the area and its resources. It must ensure that States would receive equitable shares in the benefits from the area, taking into consideration the interests and needs of the developing countries in keeping with the Declaration of Principles contained in General Assembly resolution 2749 (XXV). His delegation favoured the suggestion that the International Authority should consist of the following: an assembly with supreme authority, composed of representatives of all member States; a council of restricted membership based on equitable geographical representation to execute policy decision; a secretariat composed of international civil servants to service the organs of the Authority; and a tribunal for the settlement of disputes between member States or between a member State and the Authority. The Authority should have the right of direct exploitation although, in the early stages, it should be authorized to grant exploration licences.

15. Mr. DORON (Israel) observed that the motto of "liberty and collaboration" put forward by his delegation in the plenary meetings would aptly apply to the problems of exploring for and exploiting the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction. He supported the

idea of establishing an international régime and Authority and favoured the proposal to establish the Authority in Jamaica. Great care must be taken in laying the foundation for a new international régime; the functions and authority of the International Authority would have to be considered and defined very thoroughly. In so doing, a distinction must be made between the problems of the status and structure of the Authority and those of its functions and powers.

16. It was clear that the Authority would be active in the wide and open oceanic spaces, rather than in such limited and enclosed areas as, for example, the Mediterranean. As a developing country labouring under obvious geographical disadvantages but endowed with some technical knowledge and technological capacity, his country looked forward to participating in the work of the new Authority which would open wide prospects even for small countries. Every State should have the right to participate in the venture and to share equitably in any benefits derived from its activities and from the exploitation of what was already generally recognized as the common heritage of mankind.

17. A number of interesting proposals had been put forward concerning such questions as the structure of the new Authority, and it had been stressed that there must be no discrimination against any State. Although the principle was a laudable one, he reminded the Committee that even such laudable ideas as that of equitable geographical representation contained the seeds of discrimination if they were applied in such a way as to allow the majority of States in a region to exclude others from participation in the group, thereby preventing their election or selection to any function. That and similar pitfalls should be avoided. His delegation considered that the structure of the new body should be similar to that of existing international institutions concerned with financial, economic and commodity affairs, and not in accordance with political stances and prejudices.

18. The CHAIRMAN said the representative of the World Federation of United Nations Associations had asked to make a statement. If there was no objections, he would take it that the Committee acceded to the request.

It was so decided.

19. Mr. OGLE (World Federation of United Nations Associations) said that the central concern of the organizations he represented was to promote the creation and development of world institutions capable of adequately fulfilling world needs. The representative of the International Ocean Institute had rightly argued that the need to embody the concept of the common heritage of mankind in effective institutions required a multipurpose ocean space régime and machinery, of which a Sea-Bed Authority would be a subordinate constituent. Nevertheless, the Sea-Bed Authority would have significant functions and would dispose of substantial resources, as had been indicated in document A/CONF.62/25. An organization of such potential fully merited the care that the Committee was giving to the details of its structure and functions.

20. He submitted that the three-tier system proposed by some States would be inadequate. It would create a mosaic of different jurisdictions in the international area; the result could be chaos and even conflict. It could put the few existing companies in an excessively strong bargaining position and might force Governments to compete in offering those companies easy terms to ensure rapid exploitation of the blocks of the common heritage area allocated to them. Those Governments might be handicapped in the negotiating process by their unfamiliarity with technical matters. Many might find great difficulties in supervising, regulating and enforcing the terms of agreements in blocks of sea far distant from their own territory. All those functions could be performed more competently by the Authority itself, which should be able to treat directly with any enterprise, public or private, that participated in mining operations in the area.

21. He suggested that, in order to increase the likelihood that the inevitable development of the Authority would be in the direction its members would wish, provision should be made for automatic periodic review and appraisal of its structure and evolution by an independent team of assessors appointed by its plenary body. The report of the assessors would not have any legal effect, but would focus attention on the way the Authority was responding to changing circumstances and needs.

22. An effective voice should be given in the Authority to non-governmental organizations representing both interests and opinion.

23. Mr. U MYO HTUN LYNN (Burma) said his delegation associated itself with developing and other countries in firmly supporting the principle that the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as the resources therein, should be the common heritage of mankind. In order to ensure that the common heritage of mankind did not become the common heritage of multinational corporations, all exploration and exploitation in the international sea-bed area should be properly controlled, if not carried out, by an international organization. The organization or Authority should possess very comprehensive functions and powers, including the power to explore and exploit. It could be left to the Authority itself to decide whether to exploit the international sea-bed area directly or through contractual arrangements.

24. The composition of the Authority should be subject to the principle of equitable geographical representation; no single State or group of States should have an entrenched position in any of its decision-making organs. Each member should have one vote.

25. The resources of the international sea-bed area should be controlled by the International Authority, which should have the right to determine how the benefits derived from exploitation were to be equitably distributed among all countries of the world.

26. The international sea-bed area should be used exclusively for peaceful purposes.

27. Mr. VILHJÁLMSSON (Iceland) said his delegation's position was based on its understanding that the essence of the Declaration of Principles was that the resources of the sea-bed beyond the limits of national jurisdiction should be exploited for the benefit of all mankind, but especially for the benefit of the developing countries. The pressures of technological development and the realities of the world economy, and the arguments put forward to support an authority not acceptable to most of the developing nations, were not politically decisive. The Authority should be strong, and should have the power to explore and exploit the resources of the sea-bed and to make contracts. Although he favoured machinery that would guarantee the rapid development of a rational exploitation of sea-bed resources, he would favour limited activity in the initial stage if it came to a choice between that and immediate extensive exploitation. He saw no reason why the Conference should not produce a package deal in which the interests of rational management and the wishes of the community of developing nations were both catered for.

28. According to the Declaration of Principles, the international régime to be established would apply to the sea-bed area beyond the limits of national jurisdiction. Support was growing for the establishment of economic zones up to 200 miles from the appropriate baselines. One group of States had important interests connected with the exploitation of sea-bed resources on their coastal shelves beyond that limit. The problem might be solved by some system of revenue-sharing. He stressed that the Declaration of Principles did not apply to the superjacent waters of the international sea-bed area. It was neither possible nor desirable that the international régime should apply to those waters. Fishing for semi-migratory, mi-

gratory and anadromous species outside national zones was closely linked with fishing for them inside those zones. Consequently, international co-operation for the conservation of those fisheries should be a subject of regional arrangements or even special international agreements. The factors to be taken into account in the negotiations on such agreements were not the same as those associated with the sea-bed régime and should not be discussed in the Committee.

29. Mr. ARSENIS (United Nations Conference on Trade and Development), presenting the three econometric studies prepared by UNCTAD, said he felt that they needed some introduction because they had been distributed rather late and some of them were not available in all the working languages. He proposed to explain the reasons for certain conclusions reached by UNCTAD on some of the items before the Committee.

30. Work on mineral production in UNCTAD went back many years in the context of commodity arrangements and more recently as a result of General Assembly resolution 2750 (XXV) and UNCTAD resolution 51 (III) in which the UNCTAD secretariat was invited to continue studies of particular commodities and to study measures necessary to avoid the adverse economic effects which the exploitation of the sea-bed might have on the prices of minerals exported primarily by developing countries. Econometric studies were labour-intensive, subject to serious technical difficulties and time-consuming. Three had been done so far—on cobalt, manganese and copper—and a fourth, on nickel, was in process of completion. The four had still to be integrated into a consistent whole, taking account of certain new conditions in the present world economy.

31. Starting with cobalt, he said that although the paper seemed technical and the model described rather complicated, the general framework was simple. It had been assumed that the demand for cobalt was essentially a function of the gross domestic product (GDP) of developed countries and of a weighted lagged price structure: in other words, both the price and the level of economic activity in the developed countries affected the demand level.

32. Concerning supply, two separate assumptions had been made. First, all producers except Zaire—which was the major producer—had been assumed to supply cobalt on the basis of a historical time trend. An assumption had also been made concerning support of cobalt prices in the United States, but that was a minor aspect of the model. It had been assumed that the supply from Zaire was an equilibrating factor and would be equal to the difference between total demand and total supply from other producers. Secondly, it had been assumed that prices were determined by factors related to the ratio of supply of cobalt by producers other than Zaire to total demand and the ratio of United States stocks to world demand.

33. The model had been tested against the historical behaviour of the commodity and found satisfactory and it had been projected forward on the basis of the assumptions concerning the GDP growth rate of the world economy, using primarily projections by the Organization for Economic Co-operation and Development (OECD) on the GDP of its member countries and projections by the LINK Project, an international endeavour, by national institutions under the auspices of the University of Pennsylvania in the United States, the International Monetary Fund and UNCTAD. On the basis of those assumptions the forward projection was a production growth rate of about 6.5 per cent and a consumption growth rate of about 6.3 per cent, with the price of cobalt projected forward to increase at 1.6 per cent per annum—the real price: namely, the price related to other commodity prices. The developing countries' earnings were projected at about \$240 million.

34. Those projections were all based on the assumption that there would be no sea-bed production.

35. On the assumption that sea-bed production would have begun by 1974, low, medium and high assumptions had been made concerning the growth rate of cobalt production from sea-bed mining, on the basis of an earlier report by the United Nations Secretariat. In the light of recent developments, however, it seemed that those assumptions were too optimistic in the short run and too pessimistic regarding the first five years of the 1980s, and that the preliminary results might exaggerate the short-term impact of sea-bed mining and underestimate the long-term impact on the production of similar commodities in the developing countries.

36. On the basis of the medium assumption that about 7 million metric tons would be extracted from the sea-bed by 1980, the model had been re-run to determine the impact of that additional supply on prices, total production and developing countries' export earnings. The results showed that sea-bed production would have a very small impact on the price of cobalt. Most of the adjustment would be effected through cut-backs in the production of land-based producers—primarily Zaire—and the developing countries' earnings would be reduced from an estimated \$240 million projected for 1980 in the absence of sea-bed production to \$184 million. However, the total gross income from sea-bed mining of cobalt would be about \$46 million, which would not be enough to compensate cobalt producers' losses or even compensate Zaire, which alone would lose about \$32 million.

37. With regard to the second study, manganese was a difficult commodity to put into a quantitative model because of the particular oligopolistic nature of the market and because prices played a very small part in demand. It had simply been assumed that the annual consumption was related to ferroalloy and steel production of consuming countries: in other words, demand was insensitive to price. Production of manganese ore had been assumed to depend on production capacity in the manganese ore industry; and in the long run the economic capacity of the manganese ore industry was supposed to be influenced by time lags in the price structure of manganese. The change in commercial stocks was determined by aggregate production, aggregate consumption, net imports from the socialist countries and changes in United States Government stocks. The price was determined by lagged commercial inventory and by United States Government stock changes. It was a complicated model, but basically what it meant was that demand depended on levels of activity in the steel industry. Supply was insensitive to price changes in the short run but sensitive to them in the long run. From year to year the price of ore was primarily determined by inventory changes in the world economy. Under similar assumptions used in the cobalt study concerning the GDP growth rate of developed countries and hypothetical assumptions concerning the rate of sea-bed production, the following projections had been made for 1980: without sea-bed mining, demand would increase by 5.8 per cent per annum, production would increase by 4.2 per cent per annum and there would be a price reduction of about 1.1 per cent per annum. The developing countries' export earnings would increase at about 3.1 per cent per annum, reflecting a combination of the increase in over-all demand and the decline in price.

38. On the medium assumption of manganese production from the sea-bed, land-based production would increase much less: there would be a cutback in production and the increase would be only 1.5 per cent. The impact on prices, however, would be rather limited—a projected decline from 1.5 to 1.1 per cent per annum. Developing countries' export earnings would decline to about 2 per cent per annum. The total loss to the developing countries would be about 30 per cent of export earnings from manganese ore.

39. He emphasized that those results depended critically on the assumptions in the model regarding supply behaviour of land-based producers. The developing countries' losses because

of increased supplies from the sea-bed would be about 50 per cent of the gross value from sea-bed production. As in the case of cobalt, gross revenue represented gross earnings without deduction for operating costs, depreciation, amortization and return on capital. The prospects of compensating the developing countries for their loss of export earnings solely from sea-bed manganese production did not seem very bright.

40. With regard to copper, the subject of the third study, a number of difficulties had been encountered in setting up a satisfactory model. UNCTAD had been involved in the problem since 1966. The basic difficulty was the existence of two markets which were not perfectly connected: the New York copper market, on which producer prices were fixed on the basis of medium-term targets, and the London Metal Exchange market, on which prices fluctuated considerably in the light of short-term availability and demand in the world economy. There was thus a great difference between assumptions of sea-bed production based on the New York and on the London market.

41. On the basis of the previous assumptions concerning the developed countries' GDP and the medium assumption concerning sea-bed mining, forward rates of 4.3 per cent per annum for production and 4 per cent per annum for consumption had been projected, with an increase in price of 3.5 per cent per annum for London and 2.6 per cent for New York—without sea-bed production.

42. Assuming supplies were extracted from the sea-bed, price increases would be reduced to 2.2 per cent for London and to 1 per cent for New York.

43. Another difficulty was allocating potential losses between developed and developing copper-producing countries. The results of studies showed a reduction in developing countries' export earnings by \$194 million—about 60 per cent of gross earnings projected forward from sea-bed mining. It was doubtful, therefore, that the gross sea-bed revenue could fully compensate the developing producer countries' potential losses.

44. That, roughly, was the substance of the papers submitted by UNCTAD.

45. He stressed that the studies were really hypothetical projections on the basis of many assumptions. The results that were valid, irrespective of assumptions concerning the rate of growth of sea-bed mining or of activity in developing countries, were the following: first, sea-bed mining would bring direct benefits to consumers of the minerals concerned, who were by and large the mineral-using industries in the developed countries. Secondly, the main consequences of sea-bed production for land-based producers of the minerals concerned would be that total export earnings would grow less rapidly than otherwise and might even decline. Thirdly, the impact of sea-bed production would probably be particularly adverse for developing producer countries because they depended more on the minerals concerned for export earnings and government revenue than did the developed producer countries. Fourthly, the compensatory approach, namely to compensate the developing producer countries affected by sea-bed production for the estimated adverse impact on export earnings was unworkable because the International Sea-Bed Authority would not have enough funds if they were confined to the net revenue from sea-bed exploitation. Fifthly, if the developing producer countries were to be compensated for potential losses and adequate revenues became available to other developing countries, firm preventive arrangements would have to be made in advance of production of sea-bed minerals, arrangements which could include either commitments by developed countries to make good the shortfall between export earnings of the proposed International Authority and the amount needed for compensation, or the establishment of a floor price for mining products from sea-bed production.

46. If he had any particular message, it would be the following: sea-bed production would add new supplies to the world; it would be very difficult to settle the organization of sea-bed production satisfactorily without taking account of land production, which would provide the bulk of resources for years to come, and it would be difficult to reach an arrangement without having solved the organization of production on land. As a result of the Declaration on the Establishment of a New Economic Order made by the sixth special session of the United Nations General Assembly,² the UNCTAD secretariat was working on the possibility of a comprehensive commodity approach which would include a number of commodities and would take account of sea and land sources of supply.

47. Mr. RATINER (United States of America) said that the UNCTAD reports under discussion were important because many of the proposals before the Committee were motivated by a concern for the possible economic implications of sea-bed production. He urged a full discussion of that issue during the Conference and hoped that the UNCTAD representative's statement could be reproduced *in extenso* in the records, so that representatives could study and comment on it.

48. His delegation had difficulty with many of the assumptions in the reports—for example that it was mainly the mineral-using industries in developed countries that would benefit from lower prices. He questioned that statement and said that the users of the metal in manganese nodules were often the developing countries. His delegation planned to study the UNCTAD reports with care in order to be responsive on that topic at a later time.

49. The CHAIRMAN said that if there were no objections, he would take it that the Committee was in favour of the reproduction *in extenso* of the statement by the UNCTAD representative.

It was so decided.

50. Mr. ARSENIS (United Nations Conference on Trade and Development), replying to the United States representative, said that his conclusions did not depend on particular quantitative assumptions in the econometric models, but on the fact that with the addition of the new sources of supply to land-based supplies, prices would tend to fall. If the demand elasticity were less than one, total revenue of all producers would be less; if demand was price-elastic, total revenues would be more than before.

51. The problem was that the additional gross revenue of sea-bed mining might not be enough to compensate for the loss of profit of land producers.

52. He agreed that the technical studies were very tentative: no figure was proposed for a possible shortfall in 1980–1985; only the direction was indicated, and whether it would be minus or plus.

53. He also thanked the United States representative for pointing out that developing countries were becoming metal consumers: that was reflected in the studies. Moreover, special care had been taken to find out how much would go to the developing countries and it had been determined that the great bulk of metals and raw materials were still directed towards the developed countries.

54. Mr. ILLANES (Chile) said that the UNCTAD representative's statement would help representatives to understand the technical documents and their full effects on the Committee's work. He would like further information on the relative advantages of the two methods—preventive and compensatory—of dealing with the adverse effects of exploitation of sea-bed minerals on the developing countries' economies, with specific examples of how a fall in prices for land-produced minerals in the developing countries could be prevented. Could the UNCTAD representative also elaborate on his statement to the plenary

meeting that the preventive method would require a strong international authority with broad powers?

55. Mr. ARSENIS (United Nations Conference on Trade and Development) said that, assuming that the net revenue to the proposed authority would be hardly enough to compensate the developing country producers for loss on export earnings, the question arose as to how to raise the financial resources to compensate the developing producers fully and have enough funds for the least developed among the developing countries, and the land-locked and other developing countries.

56. There were two alternative approaches. The first was to obtain the additional resources from the developed consuming countries. As he had said, lower prices would cause a consumer surplus. If the gains were to be distributed primarily to the poor countries, there was a case for transferring the consumer surplus back to the developing countries, which would yield enough both to compensate the developing producer countries and help to finance other developing countries. That would have to be done by lump sum transfers, which were difficult to administer and would need a strong international authority. The problem was twofold: could international agreement be obtained in principle that in the event of a consumer surplus, it would be transferred from the consumer to the producing and other developing countries? Would there be agreement to a transfer, not by individual commitment but by automatic arrangement? In view of the difficulty of implementation many Governments had opted for reallocation and redistribution of income through market arrangements.

57. The second approach was for an international commodity price agreed by negotiation between consumers and producers based on calculation of reasonable returns to a reasonably efficient land producer. In that case, developing producing countries would not need compensation and all the net revenue of the International Authority would be available to finance development in other developing countries. The difficulty was that in the short run, a support or floor price would need financing and the operation of a buffer stock, while in the long run it would require a commodity agreement—and international commodity agreements had been very difficult to achieve in the past.

58. If the international community was ready to accept a comprehensive commodity strategy, including commodity agreements, stabilizing of prices and distribution and supply, that would be the more satisfactory solution. Irrespective of the approach, it was clear that the proposed International Authority would be involved. With the preventive approach, it would participate in any commodity agreement to stabilize prices, operate buffer stocks and distribute supply: it must therefore be a strong entity with negotiating power. With the compensatory approach, the International Authority would have to examine questions and regulations concerning production and processing and so forth. He had stressed, at the 42nd plenary meeting, that under the licensing system, the national companies with know-how would avail themselves of the possibilities. It seemed, therefore, that whichever the approach, the International Authority needed wide economic powers to deal with the problem.

59. Mr. DE SOTO (Peru) said that the Committee could discuss the reports prepared by UNCTAD in detail after members had had an opportunity of studying the statement made by the representative of that organization.

60. He drew attention to a recent book, reviewed by the magazine *The Economist*, in which the author had defended the principles of economic growth. The magazine seemed to disagree with the forecast by the Club of Rome regarding the future shortage of minerals. It stated that there would soon be vast technological progress in mineral recycling and production techniques. It went on to quote the International Bank for Reconstruction and Development to the effect that there would

²Resolution 3201 (S-VI).

be a large annual supply of manganese and that the current trend would lead to an increase in the supply of minerals and a decrease in prices in the second half of the 1970s and in the early 1980s. That forecast boded ill for the mineral-producing developing countries. In its report on the effects of possible exploitation of the sea-bed on the earnings of developing countries from copper exports, the UNCTAD secretariat stated that the effects of possible exploitation of the sea-bed on the copper market and on the export earnings of the developing countries would depend on the intensity of such exploitation and that that intensity, in its turn, would depend firstly on the measures taken by national or international authorities to regulate such exploitation, and secondly on the relationship between the costs of exploitation and the market prices for the metals concerned. (TD/B/484, para. 18.) That information was also based on two reports of the Secretary-General (A/AC.1/138/36 and A/CONF.62/25) in which it was stated that there were a number of reasons why it was difficult to compare the relative costs of sea-bed and land production. It appeared that a great many of the possible dangers were unknown, because much of the information was still secret and based on a series of imponderables.

61. He asked the representative of UNCTAD what would be the influence or repercussions of progress in exploitation techniques on normal sea-bed production. Would it increase production and have a greater impact on prices from land-based production?

62. Mr. ARSENIS (United Nations Conference on Trade and Development) said that he could not answer that question fully because no information was available and the technology was changing rapidly. The international community might therefore wish to adopt a flexible approach in the light of technological progress. While such progress would be welcomed, no one wanted sudden disruptions in the world market; an orderly introduction of technology and an equal distribution of the resulting gains was preferable.

63. When referring to costs, the UNCTAD secretariat was referring to shadow prices—rather than actual prices—which reflected the real situation in each State. In developing countries, prices did not reflect the real opportunity cost. For example, in Zambia the opportunity cost of a miner was nil. Whatever he produced would be a net gain for that country. On the other hand, in a developed country the opportunity cost of a similar worker might be as high as his salary. The cost used should therefore be based on shadow prices.

64. Mr. THOMPSON FLORES (Brazil) said that from what the representative of UNCTAD had said, it was undeniable that sea-bed production implied a decrease in the income of land-based producers. Furthermore, compensation machinery would be difficult to establish and maintain and any progress in technology would increase the existing gap and make compensation even more difficult. His delegation believed that a system of compensation would be unjust, since the Authority's money, which ought to be used in the interest of all mankind, would be used to compensate only some developing countries. His delegation also could not accept the argument that in the long run benefits would accrue only to the consumer of the finished product.

65. With respect to the extent of the Authority's power to act effectively in global commodity arrangements, it appeared that the Authority would have to regulate all markets and participate in the activities in association with those extracting and marketing the minerals, especially since many of the entities that would be engaged in exploitation were based on vertical integration.

66. Mr. VARADAN (India) said that as a major producer of manganese and as a developing country which imported copper and other minerals, India was vitally concerned with the issues raised. The international community did not appear

to have two alternatives, as the representative of UNCTAD had said, since it would have to sustain prices because the evidence showed that the mineral resources of the oceans were vast. The point in doubt was how much of those resources were economically exploitable. As soon as technological progress made it possible to exploit those resources, a free market situation would bring about the replacement of land-based production by sea-bed production. The Authority should therefore be given wide powers to maintain prices, because if prices were allowed to fall compensation would have to be sought for the developing countries. The authority must accordingly have the power to regulate production and prices and to generate funds while taking advantage of technological progress. That was particularly important because in most commodities, *per capita* consumption was much lower in the developing countries.

67. Mr. ALLOUANE (Algeria) said that all the documents available suggested that the benefits to be acquired from sea-bed production would not serve to compensate the land-based producers. Those reports, however, did not suggest the sustaining of prices as a preventive measure and he therefore asked the representative of UNCTAD to comment on a possible fund, to be administered by the Authority, for guaranteeing prices.

68. Furthermore, the representative of UNCTAD had said that additional consumption by consumer countries would benefit the developing countries. His delegation wondered in what way a consumer surplus would benefit developing countries.

69. Mr. ARSENIS (United Nations Conference on Trade and Development) said that the UNCTAD secretariat was largely in agreement with what the representative of India had said.

70. He pointed out to the representative of Algeria that the UNCTAD reports did in fact emphasize a preventive approach, i.e. guaranteed prices, which meant that prices should not be allowed to fall below an internationally accepted level. The UNCTAD secretariat had felt, however, that it should inform the Committee of possible alternatives. While it felt that the price-support approach was preferable, it had to point out that that had not been agreed upon, in principle, by the international community. That approach, however, had gained political momentum as a result of the sixth special session of the General Assembly, but there had been reservations expressed on that aspect of the Declaration on the Establishment of a New International Economic Order.

71. He had not elaborated on the comprehensive commodity approach because it had not as yet been discussed by UNCTAD members but would be taken up in August at the fourteenth session of the Trade and Development Board.

72. In its report to the sixth special session of the General Assembly,³ UNCTAD had indicated that the present crisis in the developing countries was the result of a drastic increase in prices of essential imports which indicated a failure in areas of commodity trading. A piecemeal approach would not help to solve those problems. There had to be equitable and remunerative prices. Many developing countries would become importers and would thus obtain some gains in the form of lower prices, but that was true of one commodity only. The solution was to enable the metal-importing developing countries to obtain gains through reasonable prices, and in that connexion, price fixing of slated commodities would not be enough. On the assumption that an equal price relationship was the only solution to the problem, UNCTAD envisaged a programme for all primary commodities in order to improve terms of trade. That approach had not been spelt out in the reports because there was significant resistance from delegations which felt that it would create an element of world inefficiency.

³ *Problems of raw materials and development* (TD/B/488).

73. There was a new awareness that neglect of commodity trade was not in the long-term interest of consuming nations and the Secretariat of OECD, in discussing inflation in its member States, had stated that the current crisis showed that prices which remained too low for too long endangered future supplies in the long run.

74. With respect to the possibilities of long-term commodity arrangements, both producers and consumers felt that stable

prices would be of benefit to all and the Secretary-General of UNCTAD had proposed a broad commodity approach to stabilize prices at an equitable and remunerative level.

75. The CHAIRMAN thanked the representative of UNCTAD for appearing before the Committee and said that members were gratified to learn that a representative of that organization would be present throughout the session.

The meeting rose at 5.50 p.m.

7th meeting

Wednesday, 17 July 1974, at 10.05 a.m.

Chairman: Mr. P. B. ENGO (United Republic of Cameroon).

Statements on the international régime and machinery (continued)

1. Mr. TARZI (Afghanistan) observed that the convening of the Third United Nations Conference on the Law of the Sea marked the beginning of a new era in the history of international law and that, for the first time, the international community was focusing its attention on the common heritage of mankind.

2. The international régime should be designed in such a way that no State would be able to extend its sovereignty unilaterally over any part of the international area and that all States could participate in the exploration and exploitation of it on an equal footing. Land-locked States should have the right of free access to the sea, a principle which should be embodied in the future convention.

3. In addition, the economic viability of the international zone must be ensured, and the concept of a common heritage would remain valid only if the zone was sufficiently vast. An International Authority with broad powers must be established to apply that concept. To uphold the principle of the equality of all States, the land-locked States should be fairly represented in all the organs of the Authority, and no State should be given preferential rights, such as the right of veto. Sufficient profits should accrue to the Authority for the developing States to be able to derive real benefit from the revenues earned from its activities. Since the situation of the land-locked and other geographically disadvantaged States was one of the principal factors responsible for the increase in the prices of their imports and exports and was holding back their economic development, his delegation believed that the distribution of benefits should take account of the need to improve the level of living of the peoples in developing countries. In addition, the more advanced States should make their technology accessible to the international community. It should be stressed that the exploration of the area and the exploitation of its raw materials should not have any detrimental effect on the production of the developing States and that the international area should be reserved exclusively for peaceful purposes.

4. Mr. BOAVIDA (Portugal), speaking with reference to the status, scope and basic provisions of the international régime, said that his delegation endorsed all the principles set forth in General Assembly resolution 2749 (XXV) and would like to see them reflected in a universally ratified and implemented treaty. The international area should be reserved exclusively for peaceful purposes, the exploration of the area and the exploitation of its resources should be carried on for the benefit of mankind as a whole, and due account should be taken of the interests and needs of developing countries in distributing the benefits derived from the exploitation of the area among States.

5. With regard to the limits of the area, Portugal agreed with the United Kingdom that, under existing international law, a coastal State already had sovereign rights over the resources of the continental margin. It believed that coastal States should also have the right to exercise their jurisdiction over a 200-nautical-mile economic zone, which they would be entitled to explore and in which they could exploit all living and non-living resources, provided that they recognized the freedom of navigation, overflight and the right to lay submarine cables and pipelines.

6. For that reason, his delegation was prepared to support variant D of article I as it appeared in the report of Sub-Committee I of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/9021 and Corr.1 and 3, vol. II, p. 51). It also maintained that for the purpose of the convention, the outer edge of the continental margin should be in the 4,000-metre isobath.

7. With regard to the structure, functions and powers of the future international machinery, he advocated the earliest possible establishment of a powerful International Authority within which the contracting parties to the convention would jointly and democratically manage the international sea-bed area and its resources on the basis of equality and mutual benefits. The Authority should discharge its regulatory duties for the exclusive benefit of the peoples of all countries and should not only systematically develop and manage the area, but also ensure the equitable sharing by all States of the benefits derived from the exploitation of its resources, taking into particular consideration the interests and needs of the developing countries. The Authority should be vested with such legal capacity as might be necessary for the full exercise of its functions and the fulfilment of its purposes. It should consist of an assembly comprising representatives of all the contracting States, which would be the supreme organ, exercising control over all the activities carried on by the other organs; a council with a more restricted membership which should formulate policies and submit them to the assembly; an enterprise entrusted with the exploitation of the area; and, lastly, a secretariat and a tribunal.

8. The convention should also include a provision declaring that the exploration and exploitation of the area should be undertaken in such a manner as to ensure the conservation and optimum utilization of its resources and the regulation of production. Fluctuations in the prices of raw materials should be avoided as far as possible, since they could adversely affect the exports of developing countries.

9. His delegation endorsed the provision included in the draft convention which would give to the State of historical and archaeological origin preferential rights over all objects of an