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Summary records of meetings of the First Committee
8th meeting

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single régime that would cover any kind of problems such as suspended particles of metal in the sea water, and pollution among others.

72. Ecuador considered that the principle of the common heritage should apply to the entire area beyond the limits of national jurisdiction, namely, the international area, taking into account certain well-established freedoms, and that it should be closely co-ordinated with the single régime that its delegation proposed for the zone of national sovereignty and jurisdiction, which was 200 miles for Ecuador. Within the latter zone, however, *jus communicationis* would be preserved under international free passage. The new international sea law should also preserve the sovereignty of States and promote their economic and social development, the welfare of the peoples and international solidarity and co-operation.

73. The position of Ecuador on the régime and the international machinery was set forth in document A/AC.138/49 jointly submitted with 12 other Latin American States, in which the guidelines coincided with those of the African and Asian States.

74. The principle of the common heritage could not be respected if the 10 commandments referred to, in connexion with the Declaration of Principles, by the the representative of Jamaica at the 4th meeting, were not followed. In that connexion, the delegate of Ecuador mentioned five points which he considered particularly significant: first, the international régime and machinery should have jurisdiction over the area, which meant the power to regulate and control all matters concerning the area; secondly, the International Authority administering the régime must have sufficient powers and flexibility to adapt to changes resulting from technical progress and to ensure the marketing of raw materials; thirdly, the international organ should include an enterprise which would enable it to exploit directly or jointly with States or companies, the latter being under the responsibility of the State to which they belonged.

75. Ecuador was strongly opposed to any licensing system, which it considered contrary to the spirit of the Declaration of Principles and which would tend to award the most productive sectors to consortia or to international companies. It was not a question of excluding the latter and indeed in most cases they would be the ones exploring and exploiting the area, but simply of bringing them within a system of contracts of operation or association which would clearly reflect the power of control of the International Authority and its enterprises as well as the responsibility of the authority towards member States. The rational joint administration of the heritage of mankind was incompatible with the system of licences.

76. Fourthly, with regard to the structure of the international body, Ecuador considered that the assembly should be its only central organ where all power would be concentrated. It would be composed of all the members, each having equal power. Any proposal aimed at establishing categories or classes of privileged States was unacceptable as contrary to the Declaration of Principles and the concept of sovereign equality of States enshrined in the Charter.

77. Fifthly, Ecuador shared the view of those strongly opposed to the suspension of the moratorium called for in resolution 2574D (XXIV) and was therefore ready to join in any action to neutralize the manoeuvres of States or of companies that claimed to exploit unilaterally the area prior to adoption of the international régime.

78. The delegation of Ecuador reserved the right to intervene on other important questions, such as the settlement of differences.

79. Speaking in exercise of his right of reply, Mr. SEPULVEDA (Mexico), with whom Mr. FONSECA TRUQUE (Colombia) and Mr. MARQUEZ (Venezuela) associated themselves, thanked the representative of the United States for not having interrupted him when he was stating the views of his delegation, but considered that the intervention of the United States delegation was out of place. A close reading of the terms of reference of the Committee did not support the restrictive interpretation the United States delegation had given to the question before the Committee. Nothing prevented the Committee from assisting the Second Committee in determining the limits of the international area. Furthermore, the questions concerning the exploration of the area and the exploitation of its resources were related to nearly all the other activities of the Conference, and any attempt to fix any rigid frame was inadmissible. It must be borne in mind that the Conference was a meeting of plenipotentiaries aimed at finding solutions in the interest of all and consequently it was inappropriate to attempt to compartmentalize the various issues.

The meeting rose at 1.15 p.m.

8th meeting

Wednesday, 17 July 1974, at 3.10 p.m.

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

Statements on the international régime and machinery (*concluded*)

1. Mr. MARSIT (Tunisia) reaffirmed his delegation's support for the concept of the common heritage of mankind. That was the basic principle which should govern the Committee's decisions on the main points before it, namely, the extent of the international area, the powers of the International Authority which would be responsible for administering the common heritage and the means of sharing the benefits of the exploitation of that area among States.

2. His delegation would support any steps taken to prevent a reduction in the size of the area, without prejudice to the legitimate rights of coastal States. In the light of those considerations, his delegation had agreed to the concept of an economic zone of not more than 200 nautical miles, even though the size of its continental shelf could enable his country to claim a broader area. It had always supported the theory that the maritime space claimed by islands should be established in accordance with objective criteria in order not to reduce the size of the international area and it was surprised that all land-locked States did not endorse that point of view.

3. It was not, however, enough to guarantee the size of the international area. The Authority responsible for it must have wide powers in order that it might effectively control its exploration and exploitation. It must therefore have a full, autonomous legal personality and be composed of the following bodies: a general assembly, which took the most important decisions and on which all States were represented on an equal footing; an executive council responsible to the assembly, and faithfully reflecting its composition; an operational body exclu-

sively responsible for the exploration and exploitation of the resources of the area and legally empowered to carry out the necessary control and conclude contracts profitable enough to cover the cost of exploration and exploitation and show reasonable profit. That body must be flexible enough to allow for the development of technology and to progress from the phase of co-operation and indirect exploitation to that of direct and even exclusive exploitation. In addition to the administrative secretariat, there must be some body responsible for the settlement of disputes.

4. The Committee must also clearly define the criteria governing the equitable sharing of the profits from the exploitation of the resources of the area, taking account of the needs of the developing countries in accordance with the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction (General Assembly resolution 2749 (XXV)). At the first meeting of the Committee, his delegation had suggested that the Secretariat should prepare a working document which would enable the Committee to study the matter in detail and perhaps propose the establishment of a special body responsible for distributing those profits and modifying the criteria if necessary.

5. The transfer of technology was of particular importance to the developing countries because it was the only means by which they could escape from a situation which was becoming increasingly difficult.

6. Mr. KO Tsai-shuo (China) said that the relevant General Assembly resolutions on the international sea-bed régime must be adhered to. The resources of that area, which were the common property of the people of the whole world, must not be appropriated by any State or person. Equitable sharing by all States in the benefits derived from the exploitation of such sources must be ensured, taking particular account of the needs of the developing countries. The super-Powers must not take advantage of their advanced industrial technology to plunder those resources directly or indirectly. Since the relevant General Assembly resolutions stated that the international sea-bed area should be used for peaceful purposes, military operations, the emplacement of nuclear and other weapons and the activities of nuclear submarines in that area should be forbidden. Scientific research and related activities should be subject to appropriate regulation and should not be used as a cover for military espionage.

7. The international machinery should be endowed with real powers, including that of engaging directly in the exploration and exploitation of the resources of the area. Should the power of exploitation fall into the hands of the super-Powers or of monopolies, the heritage of mankind would remain common in name only. The assembly, in which all contracting parties would be represented, should be entrusted with all major powers, and the council, in which only a minority of States would be represented, should be an executive organ responsible to the assembly. If the powers of the council were inordinately enlarged, the super-Powers would find it easy to manipulate the Authority. His delegation supported the principles of the equality of all nations and of rational geographical representation in the composition of the international machinery and opposed any counter-proposal by the super-Powers.

8. It also supported the developing countries' contention that decisions on matters of substance should be taken by a two-thirds majority of the council members and decisions on matters of procedure by a simple majority and opposed the institution of a disguised veto system on the pretext of consensus.

9. The principle clearly stated in General Assembly resolution 2574 D (XXIV) that, pending the establishment of the international régime, States and persons should refrain from the commercial exploitation of the international area, must be respected.

10. Mr. AL-WITRI (Iraq) said that his delegation fully supported the view expressed by the Chairman in his introductory statement that permanent rules of the law of the sea must be established to prevent disputes, which were becoming increasingly frequent over questions such as fishing and the unilateral extension of territorial waters. The Committee's work should be based on the Declaration of Principles contained in General Assembly resolution 2749 (XXV) and, pending the establishment of an international authority, the moratorium called for in General Assembly resolution 2574 D (XXIV) should be respected.

11. His delegation endorsed the view that all activities in the international area, including scientific research, should be conducted solely by the Authority through a subsidiary organ called the enterprise. The cost of exploration and exploitation could be covered by a fund to which all States would contribute. His country had greatly suffered from the activities of the oil companies and did not want the Authority to fall into the hands of monopolies. It should not be merely a licensing agency, but should undertake exploration and exploitation directly or through contracts with States. In any case, all activity should be under its strict control and supervision.

12. With regard to its structure, the assembly should consist of representatives of all States, each with one vote. The executive council should consist of representatives of geographical groups, land-locked and geographically disadvantaged States being also represented. The exploitation of the resources by the Authority should not affect the prices of raw materials, upon which so many developing countries depended.

13. Mr. ANGONI (Albania) said that the establishment of legal provisions governing the international sea beyond the limits of national jurisdiction was important to international security and the economic interests of all sovereign States, and in particular to the economic development of the developing countries. The international sea had become the scene of rivalry and collaboration between the two super-Powers in their efforts to establish world hegemony. The Conference must therefore establish a legal régime for that area which would put a stop to the pillage of the resources of the sea and the sea-bed by the imperialist Powers and would administer the international area of the sea in accordance with the Declaration of Principles set out in General Assembly resolution 2749 (XXV).

14. All countries in the world, large and small, land-locked or otherwise, had the right to benefit from the renewable and non-renewable resources of the sea beyond the limits of national jurisdiction. His delegation supported the idea of an international machinery, which should be administered by sovereign States on the basis of total equality and should explore and exploit the resources of the sea and the sea-bed, taking account above all of the interests of developing countries. It naturally opposed any proposal, such as those made by the two super-Powers, concerning the establishment of a licensing system, which would merely perpetuate pillage by those Powers.

15. The peaceful use of the international sea beyond the limits of national jurisdiction was closely connected with the fight of all peoples of the world against the policy of control of the sea practised by the two super-Powers. The Conference should therefore draft legal principles which forbade the concentration of large fleets in the international area or near the coasts of coastal States and military manoeuvres near those coasts.

16. Mr. DORJI (Bhutan) said that his country, which had not been a member of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, fully endorsed the Declaration of Principles contained in General Assembly resolution 2749 (XXV), which must serve as a guideline for the international régime and machinery to be established by the Conference and should be the basis of any legal order governing the sea and the ocean floor. The area beyond the limits of national jurisdiction and its

resources must be reserved for the benefit of all nations, taking particular account of the interests and needs of the developing countries, whether land-locked or coastal. The area must therefore be viable in terms of resources and size. However, in accordance with the Secretary-General's report in document A/AC.138/87 and Corr.1, it seemed that most of the immediately explorable and exploitable resources would fall mainly within the so-called national maritime zone. Such an extension of national jurisdiction would not only seriously jeopardize the vital interests of the international community but would also negate the very concept of the common heritage. The identification and demarcation of the extent of the international area therefore constituted a vital issue before the Committee and must influence the establishment of the régime and the machinery.

17. His delegation favoured the establishment of a strong, comprehensive international régime and machinery, with equitable representation of all States. Each State should have one vote in the assembly, and the council should be established on the basis of equitable distribution and representation, including land-locked and geographically disadvantaged States.

18. A strong, representative Authority would be able to maintain balanced exploitation of the resources of the area so that the interests of developing mineral-producing countries were not jeopardized. On the other hand, those interests could be affected if national jurisdiction was extended up to 200 miles.

19. As a land-locked country, Bhutan believed that consideration should be given to the needs and interests of those countries, particularly their right to free access to and from the sea, upon which their participation in the exploration and exploitation of the resources of the common heritage depended. His delegation therefore endorsed the draft articles in document A/AC.138/93 (A/9021 and Corr.1 and 3, vol. II, p. 16) submitted by the land-locked countries.

20. Miss NGUYEN THI NGOC LAN (Republic of Viet-Nam) said that her delegation also endorsed the principle of the common heritage of mankind set forth in General Assembly resolution 2749 (XXV) and reflected in the Lima Declaration of the Second Ministerial Meeting of the Group of 77 in 1971. A sound international régime would ensure that the exploration of the area beyond the limits of national jurisdiction and the exploitation of its resources were carried out for the benefit of mankind as a whole, with particular consideration of the *interests and needs of other developing countries. All States* parties to the future convention should be members of the Authority, which must have full control over the exploitation of the resources of the sea-bed in the area and the competence to adopt the necessary regulations for the conservation of its living resources.

21. In close co-operation with the United Nations Conference on Trade and Development (UNCTAD), the General Agreement on Tariffs and Trade (GATT) and other United Nations bodies, the Authority should prepare international commodity agreements designed to minimize fluctuation in the prices of the minerals obtained from both land and sea-bed sources and to ensure that their export by the developing countries was not unduly affected. It must provide, in co-operation with the United Nations Conference on Trade and Development and the Inter-Governmental Maritime Consultative Organization (IMCO), for the transfer of technology to developing countries and the training of their personnel. It should ensure an equitable revenue-sharing system for the benefits derived from the area and should regulate pollution and scientific research within it.

22. The principle of equitable geographical distribution must apply in the composition of the organs of the Authority and all States must be equal in the decision-making process. Her delegation also endorsed the establishment of a permanent tribunal for the settlement of disputes. It agreed that the international machinery should be established in a developing country which was a member of the Group of 77 and therefore supported the Government of Jamaica's offer that the headquarters should be established in that country.

23. Mr. ROMANOV (Union of Soviet Socialist Republics) said that his country had frequently set forth its position on the law of the sea and in 1971 had submitted draft articles of a treaty.[1] He noted that in accordance with resolution 2749 (XXV) the régime for the sea-bed was to be established by an international treaty of a universal character, generally agreed upon. That requirement was still valid; the régime for the sea-bed and the sea-bed organization must be worked out as part of a single convention embracing the other questions of the law of the sea. Only by observing the General Assembly's requirement of universality and general agreement could the Conference establish a durable régime for the sea-bed permitting the rational utilization of its resources in the interests of all mankind. The recommendations of the First Committee must of course be linked to the recommendations made by the other Committees, particularly those concerning the outer limits of the continental shelf.

24. His delegation agreed that the convention should include a provision to the effect that the sea-bed and its subsoil beyond the continental shelf, and the resources thereof, were the common heritage of mankind in accordance with the convention. The natural consequence of such a provision must be that all countries, without discrimination, had the right to exploit those resources. The Conference must establish a régime for the sea-bed which would guarantee the rights of all States, whether developing, developed, coastal or geographically disadvantaged.

25. The régime for the sea-bed must not affect the legal status of the superjacent waters, being waters of the high seas, or that of the air space above those waters. The convention must reflect that principle and should contain a provision to the effect that the exploration and exploitation of the resources of the sea-bed must not infringe the freedoms of navigation, fishing, scientific research, the laying of cables and pipelines, and so forth.

26. The régime must prohibit the use of the sea-bed for military purposes. Otherwise it would contradict the very idea of the common heritage of mankind. The sea-bed must be used exclusively for peaceful purposes.

27. A fundamental question, underlying the solution of other questions, was that of deciding who was entitled to explore and exploit the resources of the sea-bed. A number of delegations had argued that only an international organization should be so entitled. They had appealed to the Conference to reject the "doctrine of licences" apparently making such rejection a condition for the reaching of agreement. But what was proposed as a substitute for the licensing system? Clearly, the advocates of an international organization thought that it should involve private companies and large monopolies in the exploitation of the resources of the sea-bed on a contractual basis. But it would be unrealistic to suppose that capitalist monopolies would work for an international organization for purely altruistic motives, forgetting their own interests and the need for a substantial return on their invested capital. Experience showed only too well that capitalist monopolies did not act in that way. The report of the Secretary-General (A/CONF.62/25) stated in section II.4 that nodule projects would be undertaken, under free market conditions, as long as the prospective return on investment would be greater than the expected rate of return on alternative investments in traditional land mining. In other words, private monopolies would work for the sea-bed organization only if their profits were guaranteed. The interests of the international community would be the least of their

[1] *Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21*, annex I, sect. 3.

concerns. Thus, the exploitation system proposed by some delegations would not only deprive a State of its lawful rights to resources but would also enable a small number of capitalist monopolies to obtain large profits from their exploitation. Clearly, such a system would be incompatible with the idea of the common heritage of mankind and the requirement that the Conference should establish a régime which would take account of the interest and lawful rights of all States.

28. States themselves must have the right to exploit the resources of the sea-bed in accordance with the convention and with licences obtained from the sea-bed organization. In such a system, part of the income from the exploitation of the resources would be distributed among the States which were parties to the convention, with special account being taken of the needs of the developing countries. One of the requirements of the system, provisionally called a "licensing system", must be that only States, or groups of States, parties to the convention would be entitled to obtain licences, even when the exploitation was to be carried out by natural or juridical persons. But the State would bear full responsibility for the observance by such persons of the provisions of the convention and the rules concerning the exploitation of the resources of the sea-bed. The number of licences issued to any State must be limited, in order to prevent the seizure of parts of the sea-bed by one or a number of States or the establishment of monopolies. The procedure for the issue of licences must also include provisions to prevent any one State from obtaining licences for the exploration and exploitation of the potentially richer parts of the sea-bed while other States were allocated areas with poor prospects or small deposits of minerals. To protect the interests of countries which were unable to undertake the exploitation of resources immediately after the entry into force of the convention, sections of the sea-bed must be reserved for them in all the potentially richer areas. All the provisions he had referred to must be reflected in documents worked out by the First Committee. They must of course include a provision concerning the equitable distribution of benefits among all States, with special account being taken of the interests and needs of the developing countries. The Committee must draw up not only the appropriate articles of the convention but also the rules governing the exploration and exploitation of the resources of the sea-bed.

29. His delegation attached particular importance to the problems of countries having no outlet to the sea and countries with no direct access to the sea-bed beyond the continental shelf. It supported the proposal that such countries should be granted the right of free access to the international area of the sea-bed and the right to participate in the exploitation of its resources. Their interests must be satisfied within the framework of an appropriate system for the distribution of the benefits obtained from the exploitation of the resources.

30. The proposed sea-bed organization must be a forum for co-operation among States in the exploration and exploitation only of the resources of the sea-bed beyond the continental shelf. The organization must not be a cumbersome machinery which would burden its members. Its competence must not extend to any questions of the law of the sea unconnected with the exploitation of the resources of the sea-bed. Attempts to invest the international organization with functions relating to ocean space and its living resources would destroy the very basis for a generally acceptable régime for the sea-bed.

31. In conclusion, he reaffirmed that his delegation was ready to co-operate in the working out of those provisions of the convention which would concern the régime for the sea-bed. It thought that the time for discussion was past and that the Committee must now begin its substantive work on the articles of the convention.

32. Mr. KALPADAKIS (Greece) said that his country, as a Member of the United Nations, was unreservedly in favour of establishing a strong and effective régime and machinery, within the United Nations system, in accordance with the principles laid down in General Assembly resolution 2749 (XXV). During the preparatory discussions in the sea-bed Committee his delegation had on a number of occasions supported the idea of a Sea-Bed Authority with comprehensive powers and broad functions respecting exploration and exploitation of the area beyond the limits of national jurisdiction, for the benefit of all countries equally, with particular regard to the interests of the developing countries whether coastal or landlocked. Such a task would be best performed, not by a complicated international organization burdened by a cumbersome bureaucratic system and excessive expenditure, but by a simple, efficient and strong machinery, flexible enough to adapt itself to changing circumstances in dealing with the complex problems facing it. The Committee had the difficult task of defining in precise detail the terms of reference, powers and structure of the new body in order to ensure proper utilization of the sea-bed's resources without infringing the traditional principles of freedom of navigation and fishing in the high seas or causing pollution or damage to animal or plant life. A great deal of progress had been made in the sea-bed Committee and he hoped that the Committee would continue to be inspired by the same spirit of co-operation.

33. With regard to the structure of the Sea-Bed Authority—a matter of the utmost importance for the effective functioning of the régime—there appeared to be broad agreement that it should be composed of five organs: assembly, council, operative arm, a secretariat and an organ for the settlement of disputes. His Government favoured a democratic assembly, with equal voting rights for all countries, in which all States parties to the convention would be represented. The assembly should have general policy-making power and be able to discuss and decide any questions within the scope of the régime or relating to the powers and functions of the Authority and to give directions to the council or other organs of the Authority on any of those questions. Its powers should include the following: election of council members; approval of the Authority's budget; consideration of reports from the council and other organs of the Authority; promotion of scientific research in the area; and adoption of criteria and rules for the equitable sharing of benefits derived from the area and its resources.

34. The council should be the executive organ of the Authority and should consist of a limited number of members, but with due regard to equitable geographical distribution.

35. In connexion with decision-making he considered that there should be no privileged position, in the form of either a veto or an over-weighted vote, particularly since the concept of the common heritage of mankind and the principle of equality among States called for decisions by a majority vote.

36. The tribunal, as the main judicial organ of the Authority, should be vested with compulsory jurisdiction over disputes related to the exploration of the area and the exploitation of its resources.

37. With regard to the system of exploitation—which was the core of the problems before the Committee—his Government believed that in principle the powers and functions assigned to the international machinery should enable it to manage and control all aspects of sea-bed operations, including exploitation of the area. However, it had been generally recognized by members of the Committee that the Authority would not have the necessary financial and technological resources—at least in the initial period—to undertake exploitation of the area itself. It might therefore wish to enter into contractual arrangements with private entities and enterprises in the industrially developed countries, which possessed the necessary equipment for exploitation of the area during that initial period, until such time as the Authority had acquired the requisite financial and technological capability, knowledge and expertise from its own resources and trained personnel from developing countries,

among others, to undertake and carry out the exploration and exploitation of the area itself.

38. There were three further points which his delegation considered highly important for the establishment of a satisfactory régime: first, the régime should ensure that sea-bed exploitation and mineral extraction from the area would not be detrimental to the economies of certain mineral-producing developing countries: secondly, land-locked countries should have the right of access to and from the area and of equal participation in the benefits derived from its resources; and thirdly, precise norms and criteria should be established for the equal sharing of benefits derived from exploitation of the area's resources, with particular regard to the interest and needs of developing countries, thus reducing existing economic inequities among States and promoting the ideal of international social justice.

39. His Government welcomed the offer from the Government of Jamaica to be host to the Sea-Bed Authority, particularly as Jamaica was one of the developing States which were the initiators and spiritual fathers of the concept of the common heritage of mankind and the new order to prevail in the sea-bed area beyond the limits of national jurisdiction.

40. In the context of the common heritage of mankind, he mentioned the question of archaeological and historical treasures found in the area, which his Government considered should be preserved by the Authority, taking into particular consideration the preferential rights of the State of cultural origin.

41. Mr. GANIBAL (Monogolia) said that the principle of the common heritage of mankind meant that all States should be able to explore, exploit and profit from the resources of the international area on an equal footing. In that area, there should be complete freedom of navigation, overflight, scientific research, fishing and laying of submarine cables and pipelines. In order that the exploration and exploitation of those resources should be carried out for the benefit of all mankind, taking particular account of the interests and needs of the developing countries, his delegation supported the establishment of an International Authority to control those operations. That Authority should have an assembly in which all States were represented, an executive council with a restricted membership based on equitable geographical distribution, a committee to exploit the mineral resources and a tribunal responsible for the settlement of disputes. The principle of equitable geographical distribution should also be followed when recruiting the staff of the secretariat and the subsidiary bodies. The Authority could be the centre for co-ordinating exploration activities and for collecting and disseminating scientific data.

42 His delegation also hoped that the interests, needs and rights of the land-locked countries would be duly taken into account in the future convention.

43. Mr. PASTOR RIDRUEJO (Spain) said that he would like to restate briefly his delegation's position, which had already been stated in the sea-bed Committee and its subsidiary bodies.

44. His delegation maintained a flexible position and would do everything in its power to achieve a negotiated solution which would satisfy the interests of all States. There were strong divergences of opinion among States, which centered on two points: the nature, powers and functions of the sea-bed organization, and the structure of the organization. The reason for those divergences was that no real consensus existed on the basic idea of the sea-bed régime and machinery, namely, the concept of the common heritage of mankind as embodied in General Assembly resolution 2749 (XXV). Some delegations saw the International Authority as a simple co-ordinating organization, mainly of a technical nature, which would issue licences for exploration and exploitation of the area's resources. The resources would be marketed without regard to the effect on world primary commodity markets. The organization would tend to be oligarchic and the highly developed countries would have a privileged position. Other delegations saw the Authority as an international organization with strong powers and broad functions which would include not only exploration and exploitation but also marketing, with a view to preventing a decline in the prices of land-produced minerals, especially those produced by developing countries. The organization would have a democratic structure, being controlled by an assembly in which all countries would have voting rights.

45. His delegation supported the second concept as the one which would best give effect to the idea of the common heritage of mankind. That was the idea underlying all his delegation's statements, both in the sea-bed Committee and at the Conference. The viability of the organization would, however, depend on a political decision by the richer countries to provide it with the necessary capital and technological means to undertake exploration and exploitation of the international area of the sea-bed.

46. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that recent years had brought ever wider recognition of the need to utilize the natural resources of the sea-bed in the deepest parts of the oceans for the benefit of all countries. Certain factors would play a vital role in meeting that need, among them mankind's growing demand for mineral raw materials on the one hand, and, on the other, contemporary knowledge concerning the presence of such materials in formerly inaccessible areas and the development of the means of exploiting them. The Committee must constantly bear such factors in mind when working out specific provisions and articles concerning the régime for the international area of the sea-bed.

47. His delegation endorsed the view of those delegations which had declared themselves in favour of the freedom of scientific research on the sea-bed; without the knowledge already obtained from such research, it would be impossible for the Committee to consider the items allocated to it or to examine the question of the establishment of a sea-bed organization. Future scientific research was also of great importance, especially for the rational utilization of the common heritage of mankind. No one would argue that contemporary knowledge concerning the deepest areas of the ocean was comprehensive or sufficient, whether it was knowledge about deposits of natural resources or knowledge about the consequences of the exploitation of such resources and its effects on the marine environment.

48. Clearly, the study of the sea-bed and its resources must be continued and appropriate conditions must be established for its expansion and the elimination of obstacles, including quite unjustified attempts to limit the freedom of scientific research. Such an approach would help to reconcile the various positions reflected in the alternative draft articles prepared in the sea-bed Committee.

49. In a broader sense the study of the sea-bed had a bearing on a number of branches of science which could not be developed without knowledge of the sea-bed, its structure and geomorphology and the geological processes taking place on it. The verification of the theory of continental drift, for example, would be impossible without investigation of the sea-bed. In many cases the sea-bed was the only area where it was possible to solve problems of world significance such as the study of the earth's crust.

50. His delegation agreed with those which had stressed the importance of the drafting of regulations governing the exploration and exploitation of the resources of the sea-bed. A number of delegations, notably that of Jamaica, had quite rightly maintained the inadmissability of uncontrolled exploitation of the resources and had argued for control at all stages. But it was first necessary to know exactly what was to be controlled and what requirements were to be imposed on those

subject to control. Such requirements must be clearly formulated in specific regulations applicable to the various stages of the industrial exploration, exploitation and utilization of the resources. Other provisions might be included in the regulations, such as that suggested by the representative of Canada at the 2nd meeting concerning the safety of workers.

51. He regretted having to refer to a new and dangerous element which had entered the Committee's debate. No verbal camouflage could mask the attempt to call into question or even revise one of the most important provisions of the Declaration of Principles, namely, that nothing in the Declaration should affect the legal status of waters superjacent to the area of the sea-bed or that of the air space above those waters. The Conference should give careful thought to the possible harmful consequences of rejecting that principle. To reject provisions of the Declaration which had been approved by the General Assembly with great difficulty only a few years previously would hardly further its efforts.

52. Mr. ALLOUANE (Algeria) said that his delegation had taken part in the sea-bed Committee's work since 1971. It believed that the principle that the sea-bed and its resources were the common heritage of mankind and should be exploited in the interests of mankind, with due regard to the needs and interests of developing countries, should be clearly reflected in the proposed régime and machinery. There seemed to be general agreement on the establishment of international machinery but there were serious divergences of view regarding the powers of the machinery. In his delegation's view the machinery should have all the powers required for management, exploration, exploitation and control of the international area. It should therefore have a general assembly, with full powers for decision in all matters relating to exploration, exploitation, marketing and distribution of benefits, an executive body with limited membership based on equitable geographical distribution with no country or group of countries having any preponderance of power, and an operational organ to be responsible for direct exploration and exploitation of the international area and the marketing of products.

53. He refuted the argument that the international machinery would lack the technical means to exploit the sea-bed resources: the developed countries possessed the means and should demonstrate their co-operation by making them available to the international machinery until it possessed the financial means to acquire its own facilities. There should be absolutely no question of ceding exploitation of the international area to multinational companies, who would betray the concept of the common heritage of mankind and, on the pretext that the international machinery lacked technical means, would hand over exploitation to private enterprises whose colonial activities the third world countries knew only too well.

54. A further organ would be necessary, to be responsible for planning on the basis of world requirements of mineral products, deciding the extent of the area, the amount to be extracted and the marketing price, with a view to preventing adverse effects on the land-based resource production of the developing countries. The documents pursuant to resolution 51 (III) of the United Nations Conference on Trade and Development—of which his country and Peru had been sponsors—showed clearly that sea-bed exploitation would affect the developing mineral-producing countries. The economies of certain developing countries were heavily dependent on mineral exports and those countries could lose up to half their export earnings as a result of sea-bed production: they must be safeguarded against such losses. To that end, in addition to preventive measures, a system should be devised for compensating at least part of such losses. A price stabilization fund should be set up to ensure fair prices and remuneration for minerals produced by developing countries, and international agreements should be concluded on products likely to face competition from sea-bed products. The developing countries should be given a formal guarantee at the Conference, since experience showed that promises given at the United Nations Conference on Trade and Development sessions remained a dead letter. The compensation scheme and the guarantee could, for example, be financed by a portion of the machinery's revenue, a tax on consumers of the products, or contributions from the international financial organizations. The scheme should be part of the international machinery and administered by it, and it should operate automatically.

55. Regarding settlement of disputes, his delegation did not consider that the establishment of a tribunal would be the best method, but it would not oppose a majority decision, provided that its membership was based on the principle of equitable geographical distribution and included legal and economic experts.

56. It should be clearly stated in the proposed convention that the machinery's decisions would be compulsory and not merely recommendations or resolutions.

57. Mr. BROMS (Finland) said that the new International Authority should have all necessary powers, not only to regulate sea-bed mining, but also to carry out new projects and promote mining as a whole. There seemed to be a consensus as to the necessity of establishing an International Authority to administer the exploration and exploitation of the riches of the sea-bed and the relevant research. His delegation joined in the general support for the idea of establishing an organ structured in the same way as the specialized agencies of the United Nations. The Authority should be so constructed as to ensure maximum flexibility but its structure should not be costly to run and administrative expenses should be kept as low as possible. The benefits accruing from the work of the Authority should be distributed equitably among its members, special account being taken of the needs of the developing countries.

58. The Authority should have an assembly and a council as its main organs. The assembly should consist of all the members of the Authority, with equal voting rights. His delegation thought that only States should be able to be members of the assembly, but representatives of international organizations might participate in its meetings as observers. The assembly would be the policy-making body but it should not have to concern itself with routine matters. The council should be responsible for carrying out the assembly's decisions. In his delegation's view, the council should be limited to 24 to 30 members, but the exact number could be decided when it was known what its duties were to be. However, the various interest groups could be adequately represented even in a small body. Voting in the council should be in accordance with the principle of equality; the principle of the two-thirds majority should apply in decision-making.

59. Until more was known about the tasks to be entrusted to the Authority, his delegation preferred to leave open its position concerning the establishment of an enterprise agency. It felt that the problems connected with the secretariat should not be too difficult to overcome, in view of the experience accumulated in the establishment of similar organs.

60. With regard to the settlement of disputes, his delegation thought that until the approximate number and nature of disputes was known, there was no need to establish a tribunal for their settlement. For the present, the means for the peaceful settlement of disputes spelled out in the United Nations Charter should suffice. If they did not, the parties should be authorized to have recourse to the International Court of Justice.

61. His delegation favoured a system for the exploitation of resources whereby the Authority would initially issue licences to member States or to private persons and corporations. Such a system would permit the utilization of technical know-how concerning nodule mining and bring the best economic results for the Authority and its members. Once the necessary capital had been accumulated, the Authority could start exploitation

on its own or in joint ventures, if that was regarded as an economically sound solution. Such matters would have to be decided at a later stage; for the present the Committee should maintain a flexible approach, and articles covering the various alternatives should be written into the convention.

62. Mr. PALACIOS (Bolivia) said that he would like to outline his delegation's position on some of the more important matters before the Committee.

63. In the first place, the Authority or machinery to be established in the international area should be given full powers to promote, carry out and control all activities related to exploration, exploitation, marketing of resources and equitable sharing of benefits, protection of human life, maintenance of the ecological balance of the marine environment, and scientific research. Scientific research should be conducted with the assistance of personnel from the developing countries, thus helping in the transfer of technology.

64. In the initial period, however, and until it had acquired the economic means to carry out all the activities itself, the Authority could assign some of its activities to interested States, under strict control and subject to licences or operation and service contracts. Private enterprises or transnational corporations could apply for licences or enter into contracts, provided that they were sponsored by one or more States who would be responsible for them.

65. Land-locked countries should be given free access to and from the international area without restriction or discrimination. In that connexion he referred to the articles submitted jointly by Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal, Zambia in document A/AC.138/93(A/9021 and Corr.1 and 3, vol. II, p. 16).

66. His country, like many others represented at the Conference, suffered the twofold disadvantage of being a developing and a land-locked country. Those disadvantages should be given special consideration and equality ensured in the sharing of benefits, participation in the Authority's activities and membership in the various bodies, such as the council.

67. By those means, it would be possible to set up an instrument with the necessary authority and the means of compulsory settlement of disputes, which would be sufficiently dynamic and effective to meet the interests and aspirations of mankind as set forth in General Assembly resolution 2749 (XXV).

68. As a traditional producer and exporter of a large variety of minerals, many of which were important to its economy, Bolivia was concerned about the problems of sea-bed mineral mining and its potentially adverse effects on international price levels. In that connexion he welcomed the attitude of the United Nations Conference on Trade and Development as expressed in document TD/113/Supp. 4,[2] and in the recent statement by its representative at the 6th meeting. The preventive and compensatory methods of protection should be supported. It was essential for the Authority to exercise control.

69. Mr. STEVENSON (United States of America) said that the central issue before the Committee was the extent of control by the Authority over commercial development of the resources of the international sea-bed area. The Authority would have control and exercise it through its principal organs: the assembly, which would provide broad policy guidance, the council, which would take executive decisions, the operational arm, which would manage the day-to-day affairs of the Authority, and machinery for the settlement of disputes. The United States delegation had, at the 1973 Geneva session of the sea-bed Committee, proposed the creation of a comprehensive law of the sea tribunal for disputes arising out of the interpretation or application of the convention. However, his delegation would anticipate that the dispute settlement machinery of the Authority would be a more specialized organ. It would be necessary to provide for some checks and balances among the organs of the Authority to ensure against abuse of power.

70. It was widely recognized that the Authority would have to exercise certain controls. These controls were the rights of the Authority and those rights must be accompanied by corresponding duties. There appeared to be widespread support for the following categories of rights: the right to prevent degradation of the marine environment from sea-bed exploration and exploitation; the right to obtain sufficient and reliable information to ensure that it was receiving all benefits and income to which the treaty entitled it; the right to impose requirements preventing any state or person who did not intend to explore and exploit from obtaining or keeping any mining rights in the area; the right to require that mining should be carried out safely; the right to ensure that provisions in the treaty aimed at promoting programmes for the transfer of technology to the developing countries and providing for the training of developing country personnel were implemented; the right to ensure that the resources of the area were not monopolized by a few countries or private entities so as to preclude developing countries from participation in the exploitation of those resources when they had the technological and financial capacity to do so; and the right to participate in the benefits of resource development. His delegation would work to achieve those kinds of controls. Some of those controls should be carefully spelled out in the convention, while others should be included by way of a mandate to regulate in the future, provided agreement could be reached in the convention on standards for the regulatory machinery and a just procedure for rule-making.

71. Statements by other delegations concerning the duties and obligations of the Authority had revealed that there was agreement on the need to ensure the following: that no State would be subject to discrimination in the exercise of its rights and that no State could be deprived of a right of access to the resources, if it met the obligations imposed by the treaty; that stable conditions would be provided for investment which would promote the development of resources, since everyone depended on the creativity and initiative of a pioneering few to achieve benefits for all from the extraction of the resources; that the Authority would not encumber those who extracted the resources with needless regulatory interference and administrative burdens which would reduce economic efficiency and thus the benefits to be obtained; that the property, including the proprietary data and trade secrets of those who extracted the resources was protected; and that the Authority would provide facilities and institutions for the knowledge and technology which would be transferred to developing countries.

72. His delegation was gratified by the general recognition of the need for negotiation on the fundamental terms, conditions and safeguards for exploration and exploitation. He felt that the differences between the two conceptual approaches to the question of who would exploit the area were not as serious as previous debate had indicated and that a close study of basic conditions of exploitation would help the Committee to reach agreement.

73. It appeared that in one major area there was no sign of rapprochement—the belief of a few major producers and exporters of nickel and copper, the two metals of principal commercial interest in manganese nodules, that a problem would accrue to them from sea-bed production. He said that his delegation was pleased that the Committee would have the opportunity to study more fully the report of the Secretary-General (A/CONF.62/25). It would be most useful for all countries, developed and developing, which were consumers of those materials in raw or manufactured form to analyze their interests together. Several proposals had been made calling for

[2] See *Proceedings of the United Nations Conference on Trade and Development, Third Session*, vol. II (United Nations publication, Sales No. E.73, II. D.5).

production and price controls or for limiting access to the resources of the area. Other proposals had been made which might have been motivated by a desire to ensure that the Authority could effectively regulate production. Such proposals could be seriously disruptive because they would be used to maintain or increase prices or to deprive States of access to the resources. Moreover, if they were used, they might well decrease the benefits to consumers everywhere from the availability of a new supply of nickel and copper and products made from those metals. Economic studies carried out by the United Nations had shown that the increase in copper demand would greatly exceed the rate of development of sea-bed production of copper. Demand for nickel would, to a lesser extent, also exceed the rate of sea-bed production, but nickel was in any case largely a developed-country export. The effect on manganese was speculative, but he knew of only one company that had plans to produce any manganese from nodules. The cobalt production of one or two developing countries might be affected, and appropriate measures would have to be considered in that connection. He advocated extreme care in approaching the problem of economic implications, so that the remedies applied would not be more dangerous than the problem itself.

74. Sea-bed metal production should be treated on the same basis as land production so that the two sources together would account for the global demand for those metals. Special restrictions for one source and not the other would be equivalent to discrimination against all States that were sea-bed producers.

75. His delegation placed special emphasis on the decision-making procedures which the Authority would use in dealing with the problems arising in connexion with control over the resources of the area. No single organ of the Authority should have dominance over the decision-making machinery. He proposed the use of a special procedure, similar to the one used by the International Civil Aviation Organization, which he called rule-making, to be applied in respect of unpredictable developments in the fields of environmental protection, mining safety, resource conservation and so forth. Rules would be drafted by a specialized subsidiary organ, approved by the council and forwarded to all States for review; if after a specified time period, perhaps 90 days, less than one-third of the members of the Authority had raised objections, the rules would become binding. That approach would provide maximum opportunity for expert review in the Authority and in Governments and would avoid the risk of undue influence by one or another organ of the Authority.

76. In order to ensure that all members of the Authority would be satisfied with it, the convention should contain as many procedural protections as possible. First, the convention should ensure nondiscriminatory access to the resources of the area for all States; if the Authority was empowered to restrict the number of areas available for commercial development and to select among applicants, his Government would not be satisfied that its access was secure and free from potential discrimination. Secondly, the mandate of the Authority should be to control only activities in the area which were directly related to the exploration and exploitation of sea-bed resources. Thirdly, the convention should provide an appropriate system of checks and balances among the organs of the Authority. Fourthly, a carefully defined system of rule-making should be elaborated in the convention to ensure a fair and thoughtful decision-making process. Fifthly, provisions for the compulsory settlement of disputes and the establishment of machinery for that purpose were essential. Sixthly, voting arrangements in the council of the Authority should be realistic. Seventhly, the concerns of land-based producers which were developing countries should be accommodated, if it was clear that sea-bed production would adversely affect their level of domestic production, but at the same time consumers of goods made from raw materials found in the sea-bed should be protected from artificial price increases for such materials. Eighthly, the provisional application of the permanent régime and machinery should be ensured.

77. He agreed with a previous speaker who had rejected proposals for a system of exploitation which would permit the Authority to issue licences and also to engage in direct exploitation of the area simultaneously. The Conference would seek a single system for exploration and exploitation which would accommodate the interests and needs of all countries.

78. Mr. GHELLALI (Libyan Arab Republic) expressed the hope that the Conference would be able to establish an international régime of the sea-bed and ocean floor beyond national jurisdiction based on the principles contained in General Assembly resolution 2749 (XXV). Special consideration should be given to the needs of the developing countries and also to the interests of all peoples whose territories were still occupied by foreign States; that could imply that all economic advantages should be reserved exclusively for those peoples who would, sooner or later, regain their occupied territories.

79. His delegation supported the establishment of an International Sea-Bed Authority, clearly insulated from great-Power politics, and with adequate powers to ensure the application of the régime. The Authority would exercise jurisdiction, not sovereignty, over the area and its resources, and would be responsible for distributing the profits derived from exploitation of the resources, preserving the marine environment, promoting the development of the area, planning, and the transfer of science and technology. The main function of the Authority should be to control all economic and related activities in the area and to carry out direct exploration and exploitation of the sea-bed and its resources. The licensing system that had been proposed was unacceptable to his delegation; it would be a departure from the principles of General Assembly resolution 2749 (XXV) as it would mean that the international sea-bed area could easily fall under the control and monopoly of a few powerful States. A licensing system would not be in keeping with the interests of the developing countries, which were well aware that joint management was the most important and revolutionary aspect of the concept that the international area was the common heritage of mankind.

80. The Authority should consist of a plenary organ, in which all States parties to the convention would be represented and in which each member would have one vote, an executive organ with restricted membership whose composition should reflect the different views of regional groups, an operational organ and a secretariat. A machinery for settling disputes, which he hoped would be more efficient than those previously provided for in United Nations instruments, should be established. He expressed his conviction that any special arrangements made by certain States with a view to dominating any organs of the Authority in the name of technological and administrative efficiency would be doomed to failure.

81. Mr. VANDERPUYE (Ghana) said that, although negotiations had been going on for over six years now, no agreement had been reached and there were still too many brackets and alternative formulations in the draft articles that had been drawn up. There was, however, general agreement that the international sea-bed area should be exploited for the benefit of mankind as a whole. Delegations should study other delegations' positions carefully to determine whether the differences of opinion on the means and methods of exploiting the resources of the sea-bed were fundamental or superficial.

82. His delegation had already stated its views in the sea-bed Committee on the structure and constitution of the international machinery. One of the first matters that should be settled was the delimitation of the international area, for the size of the area to be exploited and the potential profitability of exploitation would determine to a certain extent the type and size of the international machinery needed to govern its exploitation. Some delegations had understood that agreement had been

reached that there would be a 200-mile economic zone for coastal States and that the remaining ocean space would constitute the international area; there had, however, apparently been a misunderstanding on that question, even among those who supported a 200-mile economic zone, which should be resolved. Great care should be exercised in establishing the international machinery to ensure that it would not work to the detriment of the developing countries for whose benefit it was being established.

83. With regard to the question of the economic implications of sea-bed mineral production, he noted that two documents, TD/113/Supp.4 of 7 March 1972 and TD/B/449 of 25 June 1973, stated clearly that uncontrolled exploitation of sea-bed minerals would disrupt the market and adversely affect the economies of the developing countries that produced those minerals. The first of those documents (paragraph 21) stressed that no overt or disguised stimulus should be given to sea-bed production, and the second (paragraph 8 (*h*)) stressed that the international community should take care that the organization arrangements were fully consistent with the established role of the United Nations in the formulation and implementation of appropriate international commodity policies as an integral component of an over-all strategy for development, particularly of developing countries. However, as the representative of Fiji had said, controls to safeguard the interests of *producing countries should not prejudice the interests of consuming countries.* His delegation supported the enterprise system under which the International Sea-Bed Authority would engage directly in exploitation of the area, for that was the only way to ensure proper regulation of production and marketing. That approach had been supported by the Organization of African Unity and by various States.

84. Mr. WARIOBA (United Republic of Tanzania), clarifying his delegation's position, said that it had made two fundamental changes in its position since submitting document *A/AC.138/33 to the sea-bed Committee in March 1971. His* delegation had previously favoured delimitation by depth as well as by distance, but it now called for delimitation exclusively by distance. On the question of who should exploit the international sea-bed area, his delegation had previously supported parallel exploitation of the resources of the area by the International Sea-Bed Authority and by other entities, but it now called for the exploitation of the area exclusively by the Authority.

85. The CHAIRMAN thanked members of the Committee for their co-operation during the special debate, which had proved useful in that it had highlighted the main issues and had provided an opportunity for new members to express their views.

86. He requested the Committee to show the same spirit of co-operation in the informal meetings to be headed by Mr. Pinto, and to remove all the alternative formulations and brackets on questions about which there appeared to be general agreement and all undesirable alternative formulations and brackets on matters which were still at issue. The Committee would meet formally on 26 July to hear the preliminary report by Mr. Pinto.

The meeting rose at 6.45 p.m.

9th meeting

Tuesday, 30 July 1974, at 11.05 a.m.

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

Report of the chairman of the informal meetings

1. The CHAIRMAN said that, as had been indicated in the programme of work, he had arranged for the Chairman of the informal meetings to report to the Committee. The reports had been delayed somewhat because it had been felt that more definite ideas should be allowed to emerge.

2. Mr. PINTO (Sri Lanka) said that the Committee had held nine informal meetings since the beginning of its work. It had had before it the texts appearing in the report 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. 39) illustrating areas of agreement and disagreement, prepared by the working group of Sub-Committee I of that Committee and relating, first, to the status, scope and basic provisions of the régime, based on the Declaration of Principles contained in General Assembly resolution 2749 (XXV), and, secondly, to the status, scope, functions and powers of the international machinery. It had been agreed at the outset that the Committee would adopt the following method of work: it would begin by reviewing the draft articles relating to the first of those two topics; upon completion of that review, the chairman would submit to the Committee a list of the principal issues for discussion; finally, the Committee would decide whether to review the second topic or to begin detailed consideration of the principal issues. It had also been agreed that the Committee would use a technique adopted by the working group of the sea-bed Committee: if no conclusion could be reached after discussion of a particular text in the full Committee, the text would be considered by a smaller group consisting of those who had participated in the discussion and any other interested delegations, with a view to elaborating a text or texts that would faithfully reflect the opinion or opinions expressed in the Committee. The results of the smaller group's work would be placed before the Committee as a whole for consideration and approval and would then be reported to an official meeting of the Committee.

3. He was happy to report that the Committee in informal meetings had considered draft articles 2 to 21 within a period of three working days, and had referred those articles to the smaller group for further consideration and report. There had been no discussion of article 1, because it had been felt that a final decision on the limits of the area would depend on the results of the discussion of limits in the Second Committee. The smaller group had not yet completed its consideration of articles 2 to 21, but was trying to reconcile opposed points of view and narrow differences of opinion so as to eliminate as many alternative formulations as possible and to arrive at a single text. Significant concessions had been made by several delegations; the number of alternative texts was being reduced. It was expected that the process would be completed and articles 2 to 21 placed before the full Committee in an informal meeting by Thursday, 1 August.

4. He had suggested to the Committee three issues that might be regarded as crucial and which ought to be the subject of detailed study. They were: first, the system of exploration and exploitation: who might explore and exploit the area, secondly,