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adjacent sea-bed and subsoil as its continental shelf. To be acceptable to his delegation, a new definition must also take into account the geophysical and geomorphological characteristics of the area of the sea-bed concerned. In other words, it must be based on the notion of natural prolongation of the land domain, which was considered by the International Court of Justice to be the foundation of the continental shelf entitlement. In the view of his delegation, that notion was identical with the criterion of adjacency enshrined in the Geneva Convention. Thus, while his delegation would support a new definition based on the notion of natural prolongation or adjacency, it considered that such a definition should also prescribe, in the form of a fixed-distance formula, a maximum distance for the outer limit of the shelf. The provisions of the 1958 Convention offered little practical guidance on the delicate problem of the delimitation of the continental shelf boundary as between opposite or adjacent countries. Apart from stipulating that a boundary delimitation must be effected by agreement between the parties concerned, the Geneva Convention gave little indication of the principles on the basis of which the parties should carry out their negotiations with a view to achieving an agreed boundary line. Furthermore, the solution of the equidistance line, to be applied if the parties failed to reach agreement, was only valid in the absence of special circumstances. But, under the Convention, definition of the special circumstances and criteria for determining the boundary line, if there were special circumstances, were all left to the parties concerned to negotiate.

56. In the North Sea Continental Shelf cases of 1969, the International Court of Justice had been of the opinion that the rule of equidistance was not a mandatory rule of international law and that delimitation of a continental shelf boundary was to be effected by agreement in accordance with equitable principles. The Court had then indicated the circumstances and considerations which the parties should take into account in the course of their negotiations. His delegation firmly believed that no system of law could disregard equitable principles and was not convinced by the arguments for the compulsory application of the rule of equidistance or by the criticisms levelled at equitable principles. For example, the application of the rule of equidistance did not necessarily result in an equitable division of the area and frequently the result was quite the reverse. Moreover, the rule of equidistance was sometimes discriminatory in its application in the sense that it attached decisive importance to some geographical features or circumstances which might be purely accidental, while at the same time completely ignoring other features and circumstances of greater relevance. The result could be the attribution to one country of an area which in fact was the natural prolongation of the land territory of another country.

57. Equitable principles had often been criticized on the grounds of vagueness, subjective nature and uncertainty of application. In his delegation's view, such criticism would be valid if equity were to be equated with natural justice; but that was not the case. Equitable principles as interpreted by the Court did not signify abstract justice nor did they imply a notion of equality. There could be no question, for instance, of assigning part of a country's continental shelf area to another country or of dividing the area equally between States with different lengths of coastline. Equitable principles as propounded by the Court meant, in his delegation's view, that the parties were free to apply a combination of different methods, rather than a rigid mathematical or cartographical formula. However, they must take into account all the relevant circumstances, including those bound up with the notion of natural prolongation or that of the general configuration of the respective coastlines. Such special circumstances could not be regarded as purely subjective.

58. In view of the foregoing, his delegation wished to support the incorporation into the future convention of the equitable principle concept, as upheld by the International Court of Justice. A spelling-out of the notion of special circumstances would rectify the defects of article 6 of the 1958 Geneva Convention on the Continental Shelf.

The meeting rose at 1 p.m.

20th meeting

Tuesday, 30 July 1974, at 3.05 p.m.

Chairman: Mr. Andrés AGUILAR (Venezuela).

Continental shelf (*continued*)

[*Agenda item 5*]

1. Mr. SALLAH (Gambia) said that with the establishment of the economic zone in recognition of the principle of the common heritage of mankind, the old idea of the continental shelf, which benefited very few States, would disappear.

2. His country, as a geographically disadvantaged developing State, approved the concept of the exclusive economic zone as outlined in the Declaration of the Organization of African Unity on the issues of the law of the sea (A/CONF.62/33). That concept should replace the anachronistic idea of the continental shelf as outlined in the 1958 Convention on the Continental Shelf.[1] His delegation believed that it would be unfair to reserve for the exclusive use of a few States large portions of the sea-bed beyond the 200-mile limit. If the concept of the continental shelf were to survive, it would be largely at the expense of the common heritage of mankind, and no one should then be surprised if the Conference was to be dubbed a monumental hoax.

3. His delegation was in favour of the median line solution for settling disputes and felt that the Conference should adopt a provision of that kind because it offered a fair means of establishing boundaries. It realized, however, that such a provision need not preclude other offshore boundary agreements between States.

4. Finally, his delegation thought that any convention must include provision for delimiting boundaries between adjacent and opposite States and machinery for the peaceful settlement of disputes among such States.

5. Mr. MOLODTSOV (Union of Soviet Socialist Republics) welcomed the trend in support of the concept of the continental shelf, one of the basic principles of the existing law of the sea. The Soviet Union, as a party to the 1958 Geneva Convention on the Continental Shelf, had incorporated that principle in its national legislation and had expressed support for it in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

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

6. Coastal States possessed sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources; that was no coincidence, since the continental shelf was a prolongation under the sea of the territory of the coastal State and was organically joined to that territory. It was also significant that the resources of the shelf, as compared with the living resources of the superjacent waters, were non-renewable and non-movable; it was logical, therefore, that the sovereign rights of States over the continental shelf should not extend to the superjacent waters.

7. He agreed on the importance of fixing the outer limit of the shelf, for which the 1958 Convention offered no precise criteria. In the light of new technological advances in exploiting the resources of the deep-sea-bed, that task was becoming increasingly urgent.

8. Under the draft basic provisions on the question of the outer limit of the continental shelf submitted to the sea-bed Committee by the USSR (A/9021 and Corr.1 and 3, vol. III, sect. 15), the coastal State would have the right to establish that limit within the 500-metre isobath area, while in areas where the deep sea was close to the coast, that limit could be established within 100 miles from the coast.

9. In its statement at the 22nd plenary meeting, his delegation had indicated that, if a mutually acceptable solution was found to the basic questions of the law of the sea, the Soviet Union was ready to recognize the right of the coastal State to establish an economic zone of up to 200 miles and to dispose of all living and mineral resources within it. In that connexion, his country's current position regarding the limit of the continental shelf was that the coastal State had the right to establish the outer limit of the shelf within 200 miles from its coast or within the 500-metre isobath line, whichever it chose. Those two criteria would protect the interests both of States with a wide shelf and States with a narrow shelf. At the same time, the 500-metre isobath criterion was based on physical and geological factors which, in the view of many delegations, should be considered in any delimitation of the shelf.

10. The growing tendency for coastal States to extend their rights to the mineral resources of the sea-bed over the broadest possible area could be seen, for example, in the position of many States which were trying to establish the outer limit of the shelf along the outer limit of the continental margin—in other words, at a depth of 2,500–4,500 metres. However, that would mean that some States with a long coastline would have a shelf some 500–700 miles wide. In that case, what would be left of the common heritage? Only the areas of abyssal depths. For the purposes of the rational harmonization of the interests of coastal States and of the international community as a whole, the Soviet delegation considered that it was possible to take the 500-metre isobath as the depth criterion, since that would correspond to the actual boundary of the shelf, in the geomorphological sense, in all parts of the oceans of the world.

11. However, since there was now a group of countries which would deny to States the right to exploit the mineral resources of the sea-bed beyond the limit of the continental shelf, his delegation reserved the right to define its position further regarding the limits of the shelf with a view to safeguarding its own interests in exploring and exploiting the mineral resources of the shelf adjacent to the territory of the USSR.

12. Mr. NJENGA (Kenya) said that the overwhelming majority of States, particularly those which genuinely supported the concept of the common heritage of mankind, had rejected the exploitability criterion as a yardstick for determining the outer limit of the continental shelf. Accordingly, article 19 of the nine-Power draft (A/CONF.62/L.4) was designed to replace the existing legal definition of the continental shelf by a geomorphological one which would encompass the broader geological concept of the continental margin. The African countries, however, on the whole found that concept unacceptable.

13. From the legal point of view, the margin concept could not be justified by existing rules of international law. For example, the Truman Proclamation of 28 September 1945—which had given rise to the biggest scramble for territorial claims since the Berlin Conference of 1885—described the continental shelf as an extension of the land mass of the coastal nation, without specifying an outer limit. None of the many claims which had followed in its wake mentioned either the continental slope or the rise, except for the Proclamation of Honduras which could be regarded as incorporating the margin by implication.

14. Reference to the geomorphological concept of the continental margin was also conspicuously absent from the legislative history of article 1 of the Geneva Convention on the Continental Shelf, as could be seen from a study prepared by the United Nations Secretariat for the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. The International Law Commission, after some hesitation, had eventually settled in 1956 for a combination of two criteria: exploitability and a 200-metre depth. The unfortunate addition of the exploitability criterion had been intended not so much to sanction annexation of the margin but rather as a form of compensation to countries with a narrow continental shelf.

15. Similarly, an examination of the proposals submitted to the Fourth Committee of the 1958 Geneva Conference clearly showed that the concept of the margin was not seriously considered by the Conference. Of the many proposals, the only one to attempt a definition on a geological basis was that submitted by the Panamanian delegation,[2] which referred to the continental slope, but nevertheless contained an element of exploitability.

16. It would be interesting to hear from the delegations that had submitted proposals to the 1958 Geneva Conference, which did not reflect the geomorphological concept, on what grounds they believed that, only 16 years later, the law should be changed in such a way as to facilitate the appropriation of some 30 or 40 per cent of the ocean space for the benefit of a few countries—mainly in Europe, North America, Asia and the eastern parts of Latin America—to the detriment of almost the entire African continent and the geographically disadvantaged States, including the land-locked countries.

17. One of the major weaknesses of the concept of the margin as the outer edge of the area of national jurisdiction was that neither the scientists nor its proponents were in a position to state with any degree of certainty where the margin ended. It would be a tragedy if States were allowed to determine for themselves how far the natural prolongation of their land territory extended, because they would then be tempted to claim areas in which there were valuable deposits, particularly hydrocarbons, and the International Sea-Bed Authority would be deprived of all but the sea-bed minerals. If that happened, the Authority would not be able to generate sufficient revenues to assist the developing countries. Moreover, as the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) had reminded the First Committee at the 6th meeting, intensive mineral exploitation of the sea-bed beyond national jurisdiction could result in heavy losses for land-based producers from developing countries.

18. It should be stressed that the beneficiaries of the geomorphological criterion for the most part would be the richer countries; they would include the United States, Canada, the United Kingdom, the Soviet Union, Norway, Australia, New Zealand, India, Indonesia, the Philippines, China, Brazil and Argentina.

[2] See *Official Records of the United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. 58.V.4), vol. VI, document A/CONF.13/C.4/L.4.

19. It was for those reasons that the African Heads of State and Government in the Declaration of the Organization of African Unity had decided to recommend that the concept of the continental shelf should be subsumed under the concept of the exclusive economic zone of 200 nautical miles measured from the appropriate baseline; and that the area beyond would be part of the international area to which the common heritage of mankind concept applied and where no activities could be conducted without the approval of the international community, on such conditions as it might determine. It was only by carrying out those recommendations that the principle of the common heritage of mankind, as laid down in General Assembly resolution 2749 (XXV), would have any meaning.

20. Mr. KIAER (Denmark) said that the question of the delimitation of the continental shelf was of the greatest importance. When a country faced the open sea, the main issue was to determine the limit in relation to the international sea-bed area. To avoid future international disputes about the exact border-line, a clear-cut criterion was necessary. His delegation was prepared to support a criterion of up to 200 miles measured from the baselines.

21. A few States, basing themselves on the rules of the Geneva Convention on the Continental Shelf, made claims over those parts of the continental shelf beyond the 200-mile limit which represented the geological prolongation of the shelf to its outer margin. That was a problem which his delegation would be ready to consider in the context of a balanced solution of other problems of an economic nature. The concept of an intermediate zone or a sharing of revenues had also been mentioned in that connexion; such proposals might prove useful in the solution of the problem.

22. In narrow waters where two or more States shared the same continental shelf and were opposite or adjacent to each other, the question of delimitation presented difficult problems. The point of departure for discussing them should be article 6 of the 1958 Geneva Convention on the Continental Shelf, which provided that the delimitation should be determined by agreement; in the absence of agreement, unless another solution was justified by special circumstances, the boundary should be determined by the median line. Where the same continental shelf was adjacent to the coastal States bordering each other, the rule in article 6, paragraph 2 of the Convention was very similar to the rule in the case of States opposite each other: the delimitation should be determined by agreement and, as a residual rule, the Convention established the principle of equidistance.

23. In his delegation's view, the principle of equidistance, based as it was on law and practice, had won general recognition for very good reasons. Without that rule, there would be no objective criteria on which to base a delimitation: everything would be open to negotiation and *ad hoc* solutions. That would be a negation of the rule of law and could lead to an increasing number of disputes among States.

24. On the question of the continental shelf of islands, the basis for the Committee's deliberations should also be the 1958 Geneva Convention on the Continental Shelf. In article 1, paragraph (b) of that Convention, the continental shelf of islands was defined in the same way as for other territories. International law concerning the delimitation of the continental shelf was, as a general rule, the same for islands as for the State as a whole. An oceanic island would have a full sea-bed area, and for an island situated closer to another country, the delimitation of the continental shelf would be based on the principle of equidistance in accordance with article 6, paragraph 1 of the Geneva Convention.

Mr. Njenga (Kenya), Vice-Chairman, took the Chair.

25. Mr. KIM (Democratic People's Republic of Korea) said that, in the case of small countries, the rights of the coastal State over the continental shelf had always been subject to the whim and cunning of imperialists and colonialists, whose traditional aggressive policy against the weak nations had now been extended to the sea-bed under such pretexts as joint investigation, joint development and technical co-operation. The imperialists and colonialists had turned other countries' continental shelves into so-called joint development zones in return for a few dollars and were trying to gather the sea-bed's resources with their superior technical equipment. With the intensification of aggression and plunder, the victim countries had become increasingly conscious of their rights as masters and owners of their resources, as was apparent from their legitimate struggles to protect those resources. It was only right therefore that those countries should exploit their continental shelves for their own prosperity and economic development.

26. His delegation hoped that the following points would be taken into account in connexion with the continental shelf. First, it was reasonable for the coastal State to define the limits of the continental shelf, according to its specific geographical conditions, as the natural prolongation of the land territory beyond its territorial sea or economic zone. Secondly, the coastal State had sovereign rights over the natural resources of the continental shelf, such resources including the mineral and other non-living resources of the sea-bed and subsoil and the living vegetable organisms and animals belonging to sedentary species. Thirdly, all States should enjoy freedom of normal navigation and overflight in the superjacent waters of the continental shelf beyond the territorial sea, but without prejudice to the coastal State's economic activities in exploring and exploiting the continental shelf. Fourthly, the laying of submarine cables and pipelines by one State on the continental shelf of another State should be subject to the consent of the latter. Fifthly, the boundary between States adjacent or opposite to each other should be determined by consultation, according to the principles of an equidistant or median line. Sixthly, exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction should be strictly suspended until the new international régime of the continental shelf had been established.

27. On the question of passage of warships through the territorial sea and straits, his delegation considered that the passage of all non-commercial vessels, including warships and submarines, through the territorial sea and the straits forming part of it, whether used for international navigation or not, should be subject to prior authorization by the competent authorities of the coastal State.

28. Korea, having suffered invasion by imperialist Powers and occupation by foreign forces, naturally had a cautious attitude towards the question of passage of foreign vessels through the territorial sea. It fully understood and supported the demand of coastal States and straits States for a clear distinction to be drawn between merchant ships and warships.

29. Mr. NGUYEN HUU CHI (Republic of Viet-Nam) said that his Government attached great importance to exploiting the potential natural resources of the southern part of its continental shelf. It considered the rights of the coastal State over its continental shelf to be sovereign and exclusive, and in 1967 the President of the Republic of Viet-Nam had made a solemn declaration to that effect. His Government was in favour of any formula for delimiting the continental shelf based on the criterion of 200 nautical miles measured from the applicable baselines, on the understanding that wherever the continental shelf extended beyond that distance, the limit should be the outer edge of the continental margin.

30. His Government was equally concerned with the question of delimitation between adjacent and opposite coastal States. In view of the geographical and geomorphological complexity of the area in question and the divergent interests involved, his delegation was in favour of direct, bilateral negotiations or peaceful settlement through international organizations.

31. His delegation had examined all the proposals before the Committee and endorsed those which would allow the countries in dispute to delimit the continental shelf by agreement, taking into account all equitable factors.

32. Mr. KEDADI (Tunisia) said that as his country had a wide continental shelf with a particularly gradual slope, it had a vested interest in defending the concept of the continental shelf with a view to exploiting the resources available in that natural prolongation of its territory, particularly since its land resources were limited and its population was increasing rapidly. Under the terms of the Geneva Convention, Tunisia could have claimed a continental shelf extending in certain parts beyond 200 miles. It had not done so because it considered that such claims were unreasonable on legal and moral grounds.

33. In the view of his delegation, the exploitability and depth criteria were unsatisfactory for delimitation purposes. His country supported the concept of the exclusive economic zone which would include the former concept of a continental shelf. The position of Tunisia and 41 other African countries on that issue was defined in the Addis Ababa Declaration of the Organization of African Unity of 1973 which had recently been endorsed by the African Heads of State and Government at Mogadiscio in 1974. The concept of an exclusive economic zone based on the distance criteria had also been supported by a large number of Asian and Latin American countries at the Fourth Conference of Heads of State or Government of Non-Aligned Countries held at Algiers in 1973, and by some European countries.

34. Any progressive evolution in international law must be based on equitable principles in order to be operative and effective. The provisions of the 1958 Geneva Convention on the Continental Shelf clearly favoured a few technologically advanced countries to the detriment of the interests of the developing countries. However, as the principle of the common heritage of mankind was now accepted, that situation should be changed in order to provide a more equitable balance and to establish more harmonious relations between the States.

35. Countries claiming a continental shelf of over 200 miles should modify their position and adopt a conciliatory attitude to the proposed International Sea-Bed Authority. They should share the marine areas separating the two régimes with the Authority on an equitable basis and adopt the same behaviour vis-á-vis the Authority as they would in the case of adjacent or opposite States with which they shared a marine area, in keeping with the provisions of the 1958 Geneva Convention and the judgments of the International Court of Justice. The concept of the median line and geographical, geological and geomorphological criteria were also useful for delimitation purposes. It was important to ensure that the Authority would have sufficient resources to enable it to accomplish its mission.

36. Introducing the draft article on the delimitation of the continental shelf or the exclusive economic zone sponsored by Tunisia and Kenya (A/CONF.62/C.2/L.28), he said the sponsors had submitted a single article on those two issues because they considered that the concept of the continental shelf was subsumed in that of the exclusive economic zone. He requested the Chairman to take that document into account when the exclusive economic zone was discussed and to include the proposal in the summary of issues relating to the continental shelf and the exclusive economic zone.

37. Mr. GAYAN (Mauritius) stated his country's position on draft article 19 in document A/CONF.62/L.4, of which his country was a sponsor.

38. His country regarded the continental shelf as the natural prolongation of the land territory of the coastal State. In that connexion, he referred to the 1969 judgment by the International Court of Justice on the North Sea cases.[3] The item under discussion was already firmly settled and was part of customary international law, State practice and national legislation.

39. His country supported the Declaration of the Organization of African Unity and the resolution on the law of the sea adopted at the Fourth Conference of Heads of State or Government of Non-Aligned Countries held at Algiers in 1973. As the Organization of African Unity had not touched on the issue of the continental shelf, his country would abide by the Algiers resolution which stated that the régime of the exclusive economic zone was without prejudice to that of the continental shelf.

40. He endorsed the statement by the President of Mexico at the 45th plenary meeting concerning the demarcation between the national area of jurisdiction and the international area. The sponsors of working paper A/CONF.62/L.4 were intending to circulate draft articles on that aspect of the continental shelf problem.

41. His country had enacted national legislation based on the provisions of the 1958 Geneva Convention on the Continental Shelf to which it was a party. Although his country was not yet in a position to exploit its continental shelf, it hoped that the resources therein would provide a means of solving its multifarious economic problems. The sovereign rights of a State over its continental shelf up to the continental margin were not contingent upon its ability to exploit it. He endorsed the statement made by the representative of Australia at the 17th meeting in that connexion.

42. As no two coastal States had identical continental shelves, there could be no single formula for delimitation of the continental shelf. The only solution was to recognize the sovereign rights of coastal States in the continental shelf right up to the continental margin or rise. Where that margin was at a distance exceeding 200 miles from the baseline, provision could be made for the requirements of developing land-locked States and developing geographically disadvantaged States by using a revenue-sharing system.

43. Mr. JACOVIDES (Cyprus) said that by and large, the position of his country was in agreement with provisions of the 1958 Geneva Convention on the Continental Shelf, to which it was a party. Referring to article 1 (*b*) and article 6 of the Convention, he said that while depth and exploitability criteria had been used to delimitate the extent of the continental shelf, his country had an open mind on other criteria such as distance, particularly in the light of technological developments since the adoption of that Convention. Whatever decision the Conference might adopt regarding the criterion to be employed for delimitation purposes, he emphasized that, in the case of States opposite or adjacent to each other, and especially in the case of narrow seas where overlaps of continental jurisdiction were the rule rather than the exception, the line of delimitation of the continental shelf between such States should be the median line, unless the States concerned, on an equal footing and in accordance with the requirements of the Vienna Convention on the Law of Treaties,[4] decided by agreement to apply a different method or make any adjustments necessitated by what might objectively be described as "special circumstances". There was an obvious need for objective criteria in that regard. Particular care should also be taken in invoking the judgment of the International Court of Justice in the North Sea Continental Shelf cases: the Court's findings in that judgment should be seen in their proper perspective and in the light of Article 59 of the Statute of the International Court of Justice. In the delimitation of the continental shelf of islands the same principles should be applied as in the case of continental territory. His delegation shared the views expressed by many members of the Committee that islands were *mutatis mutandis* in the same

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

[4] *Official Records of the United Nations Conference on the Law of Treaties*, 1968 and 1969 (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27.

tradition as continental territories in so far as rights and obligations under international law were concerned. If any discrimination were to be made it should be in favour, not at the expense, of islands which relied heavily on the resources in their maritime zones. In that connexion, he strongly endorsed the statement by the Prime Minister of the Cook Islands at the 46th plenary meeting.

44. Mr. VINDENES (Norway) said that article 19 of document A/CONF.62/L.4, of which Norway was a sponsor, dealt with the definition of the term "continental shelf" and provided for the sovereign rights of the coastal State to explore and exploit its natural resources. The sponsors believed nevertheless that the article would have to be supplemented by other provisions.

45. As a joint proposal, document A/CONF.62/L.4 could establish the basis for subsequent meaningful negotiations with other groups of delegations aimed at solutions which could achieve broad agreement in the Conference as a whole. The joint proposal did not imply the withdrawal of proposals submitted previously by the sponsors.

46. Since the sponsoring delegations did not constitute a homogeneous interest group, their joint working paper was the result of long negotiations to accommodate the interests of all the sponsors, even though it did not fully meet the requirements of any one of them. The articles contained in the working paper were not intended to be exhaustive.

47. The retention of the continental shelf concept must be one of the seven main elements in the package solution which the Conference had to work out. New criteria for defining the continental shelf had to be found to replace the exploitability criterion of existing international law.

48. The definition proposed in article 19 embodied both a distance criterion of 200 miles and provisions for those States whose continental shelf extended beyond 200 miles and over which they already had sovereign rights by virtue of the exploitability criterion. It would be neither just nor realistic to disregard the distinction on which existing international law was based between States which had very extensive shelves and those which did not.

49. In view of the fact that article 10, on the economic zone, provided for the sovereign rights of the coastal State for the purpose of exploration and exploitation of the natural resources of the sea-bed, the subsoil thereof and superjacent waters, the question had been raised as to why the concept of the continental shelf was necessary at all. The sponsors of the working paper believed that general agreement at the Conference would best be ensured by marrying the old concept of the continental shelf to the new concept of the economic zone so as to reassure all concerned that the new convention would not amount to an abolition of existing rights of the coastal State.

50. Mr. MOLAPO (Lesotho) outlined the historical background to the concept of the continental shelf. The 1958 Geneva Convention on the Continental Shelf legalized unilateral territorial extension by the participating States, who were now asking for approval of that deed of colonial usurpation.

51. A backlash reaction had evolved and the countries of the developing world were now seeking to protect their interests and preserve their resources by concepts such as the economic zone or patrimonial sea. His delegation hoped that irresistible pressure would steadily build up to halt the legalized annexation of submerged land masses under the guise of the concept of the continental shelf. Comparison of the concept of the territorial sea and the continental shelf clearly demonstrated the fallacy of the argument in support of the latter. It could never be doubted that the territorial sea appertained to a particular territory; the continental shelf, however, by its very name, indicated an extension of the land mass of the continent as a whole and not merely an extension of the territory of the coastal States.

52. The Conference had the duty to undo past wrongs and injustices to the land-locked and other geographically disadvantaged countries and the international community as a whole. The colonial concept had had its day and should now be superseded by the concept of the economic zone which took account of the interests of the world community as a whole.

53. His country supported the establishment of a regional resources zone in the international sea area superjacent to the territorial seas of coastal States. Such a régime would have the effect of limiting the jurisdiction of all coastal States to the extent of their territorial seas. At the same time, it would give them equal participation with all other States of the geographical region in the regional resources zone. Such a regional régime would also eliminate nebulous claims to the continental shelf based on conflicting definitions of that concept, such as the exploitability criterion and the marginal theory, which would invalidate the principle of the common heritage of mankind.

54. Mr. RABAZA (Cuba) said that the depth and exploitability criteria contained in the 1958 Geneva Convention on the Continental Shelf, to which his country was not a party, had been superseded by contemporary reality. His delegation considered that the distance criterion could provide a means of establishing a balance between the interests of the coastal States and the international community. In the case of closed or semi-enclosed seas, the median line between the States would be the limit of national jurisdiction.

55. His delegation considered that coastal States exercised sovereign rights for the purposes of exploration and exploitation of the resources of its continental shelf to a distance of 200 miles, or in some instances to the lower outer edge of the continental rise, without prejudice to the régime in the superjacent waters. When the edge of the continental rise was located within the 200-mile limit, the latter distance would be the limit of the continental shelf.

56. His delegation supported the proposal at the 18th meeting by the representative of Argentina, a country whose continental shelf extended beyond 200 miles and was clearly determinable. It also supported that country's demand for the restoration of its sovereignty over the Malvinas Islands, which were located within its continental shelf.

57. Mr. KNOKE (Federal Republic of Germany) said that his delegation was deeply concerned by the proposed creation of a vast zone adjacent to the territorial sea in which the coastal State would exercise sovereign rights over its renewable and non-renewable resources, for the creation of such a zone would inordinately reduce the international sea-bed area. Furthermore, if the concepts of the enlarged territorial sea and economic zone were also to be applied to archipelagic States or States containing archipelagos, the international sea area would be even further reduced.

58. The establishment of a 200-mile exclusive economic zone would mainly benefit the already prosperous States bordering on the Atlantic or Pacific oceans which had the means to develop their fisheries even further and to carry out the exploitation and exploration of mineral resources. It was difficult to understand how, at a time when sacrifices were being asked of some States, others were hoping to obtain not only an extensive economic zone, but a continental shelf extending up to the limit of the continental margin even where that went beyond the 200-mile limit.

59. The delegation of the Federal Republic of Germany preferred the retention of the 200-metre isobath and the discarding of the exploitability criterion. A distance criterion was preferable for practical reasons. The theory according to which the continental shelf was the natural prolongation of the coastal State's territory had been advanced to justify the sovereign rights of the coastal State up to the limit of the continental margin, even where that went beyond the 200-mile limit. If

such a régime was adopted, within a few years it would be claimed that in the interests of a uniform régime the rights of the coastal State should be extended to the renewable resources of the superjacent waters of the continental shelf.

60. His delegation was willing to take into account existing rights in areas where exploitation had been carried out beyond the 200-mile limit. Nevertheless, it did not want new claims to be created on the grounds of the natural prolongation theory which had not been the basis of article 1 of the 1958 Geneva Convention.

61. If a 200-mile limit was set for the economic zone, that limit should also apply to the continental shelf. New claims should not be advanced on the basis of a theory that was purely geographical and geomorphological.

62. Mr. VANDERPUYE (Ghana) said that the drafters of the 1958 Geneva Convention on the Continental Shelf, to which his country was not a party, had appreciated the new aspects of the problems they had been confronted with and had made provision in article 13 for the revision and review of that Convention. They had been in the same position as the third Conference which faced the unprecedented task of drawing up rules for international machinery to administer the common heritage of mankind.

63. The Convention on the Continental Shelf had been useful in reconciling conflicts of economic interests which had escalated as a result of the 1945 Truman Proclamation on the continental shelf. Nevertheless, it had given rise to considerable criticism because it enabled coastal States to appropriate areas of the sea-bed. Although freedom of fishing was guaranteed in the superjacent waters, it was the view of his delegation that freedom of any kind was meaningless if all beneficiaries were not able to avail themselves of it. In fact, freedom of fishing in superjacent waters constituted a licence to a few developed countries to exploit the fishery resources of those waters at the expense of the international community. Furthermore, the definition of the shelf in the Geneva Convention, based on the criterion of a 200-metre depth limit or, beyond that limit, on the criterion of the exploitability test, created a shelf which, with advances in sea-bed technology, and the potential to expand both laterally and seaward. That was unsatisfactory. It was important therefore that the limits of the continental shelf should be fixed more permanently through the adoption of a distance criterion, so as to avoid international conflict. His delegation was opposed to the exploitability criterion which, in its view, did not do full justice to the interests of the developing countries; nor did it agree with the artificial distinction drawn by the Convention between sedentary species and free swimming fishes in the water column. It also considered that the vagueness of the language and concepts used in articles 4, 5 and 6 were a potential source of controversy.

64. Along with other developing nations, Ghana supported the concept of the economic zone which would ensure precise definition of limits and equitable sharing and proper control of the resources of the marine environment while safeguarding the economic interests of coastal States. His delegation hoped that the Conference would establish a 12-mile territorial sea, an economic zone of 200 miles beyond that limit and an international area, on the basis of a package deal.

65. His delegation shared the opinion of the Austrian delegation that there was no need to maintain the concept of the continental shelf if the Conference decided to establish an economic zone beyond the territorial sea. It was the view of his delegation that the concept of the economic zone and the continental shelf were mutually exclusive. The Declaration of the Organization of African Unity had not mentioned the concept of the continental shelf and his delegation found it difficult to appreciate the paradoxical position of States which supported both concepts. The nine advantaged States which were the sponsors of document A/CONF.62/L.4 had based their claims on acquired rights under the 1958 Geneva Convention on the Continental Shelf. In the view of his delegation, it was doubtful whether those claims could be justified on that basis. Furthermore, the majority of States participating in the Conference were not parties to that Convention. He hoped that the nine States would give up those claims for the common good. However, international law could only impel, and since there was no means of compelling those States to relinquish their hold on those areas of the continental shelf outside the proposed 200-mile limit, his delegation would support any proposal aimed at the establishment of an equitable system of revenue-sharing to ensure that the international community obtained some benefit from the exploitation of what would otherwise have fallen within the international zone. Furthermore, as those States based their claims to shelves outside the 200-mile limit on the 1958 Geneva Convention, the terms of that Convention should be applied. Claims should therefore be limited to the sea-bed and subsoil thereof and should not extend to the superjacent waters which would remain part of the high seas.

66. Mr. LYSAGHT (Ireland) said that there was a certain difficulty in treating the question of the delimitation of the continental shelf between neighbouring States in isolation from the question of the régime of islands. In the sphere of continental shelf jurisdiction, two separate but interrelated questions arose with regard to any island. The first was whether it was capable of generating jurisdiction over areas of continental shelf; the second was whether it should be taken into account in dividing areas of continental shelf between neighbouring States. If it was decided that certain categories of islands could not generate jurisdiction over the adjoining continental shelf, such islands obviously could have no relevance for the division of areas of continental shelf between neighbouring States. On the other hand, it was not inconceivable that an island might be capable of generating continental shelf jurisdiction yet could not equitably be used as a base-point in making a division of the continental shelf between two neighbouring States on the basis of an equidistance line.

67. The principle of equidistance had found expression in article 6 of the 1958 Convention on the Continental Shelf, which provided for a median line solution in the absence of agreement or special circumstances. It was clearly envisaged that islands would not necessarily be taken into account as base-points for the measurements of the median line, but the article itself contained no specific provision on the subject. That omission had given rise to innumerable disputes between States, many of which were still unresolved.

68. Article 6 had been considered judicially in the North Sea Continental Shelf cases, in which the International Court of Justice had determined that the overriding principle was that division should be in accordance with equitable principles. Although that judgment had listed some factors to be taken into consideration in determining equitable principles, the Court had not had occasion to develop the concept with reference to islands. His delegation believed that some advantage might be derived from spelling out in the future convention the circumstances in which islands should be used as base-points for the delimitation between neighbouring States of the adjacent continental shelf on an equidistance basis. In that connexion, he said that his delegation was attracted by the Malta draft articles (A/9021 and Corr.1 and 3, vol. III, sect. 17) and the Romanian draft (A/CONF.62/C.2/L.18). Certainly low-tide elevations and islets outside the territorial seas off the coast should have no relevance. Moreover, his delegation would suggest that uninhabited islets, wherever situated, should not be used as base-points for an equidistance line. Generally speaking, other islands should be disregarded unless they were substantial in size in relation to the State as a whole and not removed from the low-water mark of the mainland coast by more than the breadth of the territorial sea. The onus should be on those who wanted any particular island to be used as a base-

point to show that that was in accordance with equitable principles. His delegation tended to the view that no account should be taken of straight baselines as base-points for the measurement of an equidistance line. The low-water mark of the coast was a more appropriate base-point in view of the fundamental principle, acknowledged by the 1958 Convention and by the International Court of Justice that jurisdiction over the continental shelf arose from its being an extension of the land mass.

69. He drew attention to the situation which would exist pending agreement on the division between two countries of the adjacent continental shelf. It had been clearly established that no State might acquire rights or jurisdiction over areas of continental shelf belonging to another State by occupation, whether notional or effective. Nor was a State entitled to undertake exploration or exploitation activities within areas rightfully belonging to another State without that State's express consent. It followed that, pending agreement on delimitation, no State should undertake exploration or exploitation in disputed territory. To allow it to do so would be to give it an unfair and artificial advantage in any negotiations. His delegation had read with interest the Netherlands draft article (A/CONF.62/C.2/L.14) with its provision for conciliation procedures and for an interim position pending the conclusion of an agreement. However, it could not agree that an equidistance line on the single basis suggested in that article would be a satisfactory interim solution. Ideally no exploration or exploitation activities should take place in areas which were the subject of a *bona fide* dispute between neighbouring States. Accordingly, his delegation would propose the inclusion of a provision that, pending agreement on the delimitation of the continental shelf, no State should be entitled to carry on such activities beyond any equidistance line measured in accordance with the convention. At the least, that would be a powerful spur to agreement. Any State which denied that an equidistance line was equitable in its particular circumstances should be given an immediate right of recourse to conciliation procedure to determine if its contention was tenable.

70. His delegation was considering the preparation of a draft article on the subject and would welcome informal consultations with other interested delegations before submitting it.

71. Mr. FILIPPI (Chile) said that the working paper in document A/CONF.62/L.4, of which his delegation was a sponsor, defined the continental shelf on the basis of both legal and geomorphological criteria, namely the 200-mile limit and the natural prolongation of the land mass. That would take account of the exploitability criterion, which formed part of international customary law, and the corresponding acquired rights.

72. His delegation suggested that the draft articles in that working paper, with some further details concerning the geomorphological aspect, should be reflected in the document to be prepared by the officers of the Committee.

73. Mr. SOBARZO (Mexico) said that legal redefinition of the continental shelf was undoubtedly one of the fundamental concerns of the new law of the sea. The definition accepted in the 1958 Convention, which recognized the criterion of exploitability, had certain disadvantages that had actually begun to emerge during the work of the International Law Commission in the early 1950s. Although in 1951 the outer limit of the continental shelf had been accepted as being the limit determined by exploitability, in 1953 that criterion had been replaced by the criterion of the 200-metre isobath. Following the conclusions reached by the Inter-American Specialized Conference on Conservation of Natural Resources, the Continental Shelf and Marine Waters held in the Dominican Republic in 1956, the Commission had in the end combined both definitions. The 200-metre limit had been retained but the possibility of extending it when exploitation of the sea-bed and subsoil proved feasible at greater depths had been left open. That had been considered by some to have the additional advantage that it would not encourage the coastal State to regard the zone to a depth of 200 metres as a clearly defined one in which it could exercise rights of sovereignty other than those required for exploration and exploitation of its natural resources.

74. Despite its disadvantages, however, the criterion of exploitability had been accepted at Geneva. Differences had soon arisen about the interpretation of the definition contained in article 1 of the 1958 Convention. The broad interpretation, according to which the continental shelf might be extended indefinitely as technical progress rendered operations at ever greater depths possible, subject only to the rights of opposite States, was the least satisfactory. If that interpretation were to be accepted, the great oceanic basins would be transformed into continental shelves of coastal States, with results which would be grossly unlawful, for they would deprive the land-locked countries of any participation in exploitation of sea-bed and subsoil resources. Clearly the concept of the common heritage of mankind and the moratorium approved by the General Assembly in resolution 2574 D (XXIV) had spelt the end of that interpretation. However, the 1958 Convention was the only multilateral instrument on the subject which had yet been concluded, and the appropriate interpretation of the article in question continued to be a problem of great importance. Although the Convention had been ratified by only a few countries, article 1 had been adopted by a very large majority, and it should be remembered that failure to ratify an instrument did not necessarily signify that a country was actually opposed to it.

75. To interpret the Geneva Convention correctly, it was vital to take into account the relationship between the submerged areas and the continent. The geological unity of the two zones was an aspect which seemed to be entirely ignored by the broad interpretation, on the one hand, and arbitrarily underestimated by the interpretation which would set too narrow a limit to the continental shelf, on the other.

76. That geological unity was a geographical fact which applied not only to the shelf but also to the other submerged areas between the coast and the oceanic basin, such as the continental slope and rise, as was proved not only by geomorphology but also by the structure of the subsoil.

77. The International Court of Justice had stated, in its judgment concerning the North Sea, that the determining factor in recognizing a coastal State's entitlement *ipso jure* to the continental shelf was whether the submerged area in question could be considered as constituting in fact a part of its territory and that, although covered by water, it constituted a prolongation thereof.

78. Geological formations and the fluids they contained were not delimited by coastlines, but were prolonged beneath the sea. Sometimes resources in submarine areas were richer than in the coastal strip, and their profitable exploitation was becoming increasingly generalized. Coastal States must safeguard them in the interests of their peoples. That concept had been expressed at the 45th plenary meeting by the President of Mexico when he had stated that the rights of a coastal State should extend either to the outer limit of the continental rise or to a distance of 200 miles from the coast, as it saw fit to determine. The same thesis was propounded in document A/CONF.62/L.4, of which Mexico was a sponsor.

79. Adoption of the outer limit of the continental rise as the limit to the continental shelf, as advocated by Mexico, would preserve geological unity and overcome the disadvantages of the definition contained in the 1958 Convention.

80. Mr. MAIGA (Mali) said with reference to the Truman Proclamation of 1945 that it must be asked why there had been no reaction, particularly from land-locked States, and no protest from the international community. The answer was that the Proclamation had been made in the aftermath of the Second World War when the exploitation of a new source of

minerals corresponded to the interests of both individual States and the international community.

81. As to the legal concept of the continental shelf, the 200-metre depth criterion alone would have given rise to an extremely inequitable situation inasmuch as some States had a very wide shelf while others had a very narrow one. A new criterion had accordingly been embodied in the 1958 Geneva Convention, namely that of exploitability. That criterion, however, lacked the element of certainty that a law must have. In fact, it was quite useless as it stood.

82. As a result, the current concept of the continental shelf did not meet the two essential objectives, namely the freedom of the high seas and access to the sea's resources by the disadvantaged and land-locked States. Furthermore, the definition set forth in the Convention had given rise to unending controversy.

83. For the foregoing reasons, his delegation took the view that the establishment of an economic zone situated beyond the territorial sea and adjacent to it, where the economic and social interests of all States, both coastal and land-locked, would be safeguarded, should replace the concept of the continental shelf. While the concept of the exclusive economic zone was aimed at improving the standard of living of all peoples through the orderly and rational exploitation of the resources of the sea, the concept of the continental shelf favoured certain economically powerful States.

84. Mr. VARVESI (Italy) said that the problem of the continental shelf was a very delicate one, for a number of reasons.

85. First, the very concept of the continental shelf, despite having been incorporated in the positive legislation of a large number of States, including Italy, was far from being well-defined. While the concept had been justified by geological considerations and legitimate economic interests, the rules set forth in the 1958 Geneva Convention were anything but precise.

86. Secondly, the question was being considered in the light of the proposal for an exclusive economic zone—a concept that had been unknown in 1958. Whether the concept of the continental shelf would be replaced by that of the economic zone depended on the decisions to be taken in connexion with the latter. However, it was clear that coastal States would continue to have preferential and exclusive rights over the sea-bed and subsoil beyond the territorial sea, in a zone that had been termed the coastal zone of the sea-bed. As to the outer limit of that zone, neither the depth nor the exploitability criterion would provide an equitable solution for all coastal States; on the contrary, such a means of delimiting the zone would tend to crystallize profound differences among individual States.

87. Consequently, a clear, logical solution should be sought on the basis of distance from the coast, in order, on the one hand, to provide the coastal States with a zone wide enough to satisfy their economic needs and, on the other, to ensure the viability of the international zone that would constitute the common heritage of mankind. Any undue extension of the coastal zone beyond a distance of 200 miles would create an unbalanced situation that would negate the significance of the international zone.

88. It was therefore to be hoped that in the exploitation of the sea-bed resources of coastal States it would be possible to reach an objective solution acceptable to all. Such a solution alone would justify the present Conference.

89. As to the question of the delimitation of the coastal zone of the sea-bed between adjacent or opposite States beyond the 12-mile territorial sea, his delegation was convinced that the delimitation criteria embodied in the 1958 Geneva Convention remained valid. Delimitation should accordingly be determined by agreement between the parties or, in the absence of agreement or of special circumstances, by means of the median line. That principle should be accompanied by an undertaking to submit to compulsory settlement machinery any dispute that might arise in that field.

90. Mr. ROBINSON (Jamaica) said that two divergent views were emerging from the debate on the continental shelf, namely, support for the jurisdiction of the coastal State over a shelf extending to the outer edge of the continental margin bordering on the abyssal plains, and support for coastal State jurisdiction up to 200 miles, whether or not the shelf fell short of, or extended beyond that point. The Committee had become polarized between those two views at a time when there was an urgent need to reconcile them in order to reach agreement. One of the obstacles to agreement was that delegations had permitted their views to become fixed too soon, thereby depriving themselves of the necessary flexibility.

91. In his delegation's view, there should be a cut-off point at 200 miles from the coast. Such an approach had the merits of simplicity and precision. Furthermore, it would facilitate a more equitable sharing of the resources of the seas among the peoples of the world, particularly having regard to the needs of the developing countries. It would be more consistent with the principle of the common heritage of mankind than would a system that would grant the coastal States jurisdiction, sovereign rights or even sovereignty over a shelf extending to the outer edge of the continental margin.

92. Many delegations felt that the principle of the common heritage of mankind, by virtue of general recognition, had become part of customary international law. That principle must accordingly be transformed into a working reality.

93. As pointed out by the representative of Singapore, the report of the Secretary-General on the economic significance of the various limits proposed for national jurisdiction[5] indicated that a claim of coastal State jurisdiction up to the 3,000-metre isobath—which coincided approximately with the outer edge of the continental margin—would leave only 7 per cent of the off-shore mineral resources to the international zone. Was that the best endowment that could be offered the international community? If so, it was questionable whether the International Sea-Bed Authority would be economically viable. The representative of UNCTAD, speaking at the 6th meeting of the First Committee, had expressed doubts about the feasibility of an Authority having such a sparse endowment. However, insufficient attention had been paid to that view.

94. As to the delimitation of the continental shelf, many delegations had stressed that a shelf extending to the outer limits of the continental margin closely followed the geographical features of the shelf. That proposition was an attractive one. However, there was a need to choose between a simplistic geomorphological definition, which could not correct the accidents of geography, and a legal definition inspired by the need to ensure an equitable distribution of the resources of the sea. His delegation preferred the latter definition.

95. In justifying the claim that the shelf extended to the outer limits of the continental margin, great reliance had been placed on the views expressed by the International Court of Justice with regard to the North Sea continental shelf to the effect that the rights of the coastal State in respect of the area of the continental shelf constituting a natural prolongation of its land territory into and under the sea existed *ipso facto* and *ab initio*, by virtue of its sovereignty over the land. He hesitated to accept that approach, however, since the Court had not been dealing with the specific question of the status of the continental shelf in the context of a coastal State's proprietary or other interest in it, but rather with the delimitation of the continental shelf between adjacent coasts. In other words, the Court had not found it necessary to resolve the issue of the status of the shelf in order to resolve the particular question before it, namely, delimitation. It was therefore doubtful whether that case could be cited as justifying the argument that a coastal State had

[5] Document A/AC.138/87 and Corr.1 of 4 June 1973.

sovereign rights over the full extent of the natural prolongation of its land territory into the sea.

96. Many delegations had referred to the preservation of the rights acquired, either under conventional or customary international law, over the continental shelf. Yet if acquired rights in respect of the continental shelf were to be upheld, why should they not also be upheld in the case of other areas—for example, the right of States possessing distant-water fleets to exploit areas far removed from their coasts? While due regard must be paid to the rights of States under current international law, legislation would be inhibited by an excessive concern for those rights. A new law of the sea must be formulated having regard not only to the current legal order, but also to the principle of equity.

97. He suggested that a compromise between the two views might be found in conceding the jurisdiction of the coastal State over that part of the continental shelf that constituted the natural prolongation of its land territory, but agreeing that the benefits derived from exploitation beyond 200 miles should be shared with the international community. That formula would not involve mixed ownership of the shelf or mixed jurisdiction over it; it would simply require that a contribution should be made out of the income derived from exploitation beyond 200 miles in favour of the international community. Such contributions should be on a *pro rata* basis, depending on the stage of economic development of the coastal State. Thus, developing countries would not be called on to contribute in the same proportion as the developed countries. Similar proposals, on an informal basis, had been made by a number of delegations.

98. Only such a formula would ensure that the hopes of the international community, particularly the developing countries, for an equitable distribution of sea-bed resources would not founder.

99. Mr. ILLUECA (Panama) said his delegation had noted that considerable confusion existed regarding the concept of the continental shelf. In its opinion the originally accepted meaning had been geomorphological: the extension below sea level of the continental structure of the emerged coasts. Several scientists asserted that the shelf had originally been linked to the emerged surfaces of the coastal State, having been created by the same tectonic and isostatic movements which had formed the continents, and shaped by erosion and accumulation of emerged terrestrial materials, or had been a coastal plain submerged by the encroachment of the sea and was therefore a definite continuation of the territory of the coastal State. It took the form of a physical and tangible structural whole whose lower end was the meeting point of the continental slope and the abyssal plains and deeps. That unit, formed by the gently sloping underwater area adjacent to the coasts, and by the abruptly steepening incline of the slope, was what geographers called a "continental sill" and was more popularly known as the "continental shelf".

100. In his delegation's view the régime applicable was that of sovereignty for purposes of exploitation, exploration and the conservation of renewable and non-renewable resources, including scientific research and the necessary security measures to safeguard the continental shelf and the coastal State.

101. The breadth of the continental shelf varied according to the action of the forces of nature. In some cases the shelf was wider, in others narrower, and in extreme cases almost non-existent. Many coastal States had tried to establish an "artificial" continental shelf for exploration and exploitation of resources over a larger area of the sea-bed and subsoil adjacent to their coasts, but outside their national jurisdiction. His delegation thought that the claims made by many disadvantaged States were quite justified, but it was equally true that a name more consonant with geographical realities must be found for that submerged portion of the earth's surface. Why not call that portion of the earth's surface composed of abyssal deeps and plains the "national sea-bed"? Why should it not be possible to establish a régime adapted to the new realities? The existing confusion hampered the work of the Committee, and the use of inadequate or even contradictory technical terms solved none of its problems. More courage and imagination should be shown in seeking new approaches which recognized objective realities. As a supplement to an insufficiently broad natural continental shelf, legal experts and statesmen should be able to establish a "national sea-bed" under a régime which took account of the physical inequalities of the subject of the law and the economic and social needs of the coastal State.

102. His delegation had no objection to the delimitation of such a "national sea-bed", provided it did not exceed 200 nautical miles measured from the baseline. That limit was in keeping with the criterion of the maximum delimitation of sea space under the national jurisdiction of a coastal State, for which there had been a wide measure of support at the Caracas meetings. His delegation realized that the delimitation of the "national sea-bed" must be based on strictly agreed criteria as to the rights claimed to the natural continental shelf. However, it would not regard the criteria of depth and exploitability as acceptable for the delimitation of the "national sea-bed": the former because many delegations did not regard the criterion as being an objective and uniform limit; the latter because it was a criterion which lent itself to arbitrary conduct by the technologically advanced powers.

103. His delegation attached importance to the item on the continental shelf. The Republic of Panama had claimed and was claiming the exercise of its sovereign rights over the continental shelf of the Isthmus of Panama throughout its national territory, beneath the waters of both the Pacific and the Caribbean. His delegation had come to Caracas in a constructive spirit and would continue to contribute to the work of the Committee.

104. Mr. BELLIZZI (Malta) said that although his country adhered to the 1958 Convention on the Continental Shelf, it considered that the concept of the continental shelf should be absorbed in the new concept of the exclusive economic zone. The delegation of Malta was in favour of establishing a uniform maximum limit of 200 nautical miles for all purposes for maritime areas under national jurisdiction. The advantages of that limit would be its precision, universality, uniformity and equity—qualities which were not implicit in the criteria of exploitability and of so-called natural prolongation. Of course, within the limit of 200 miles the coastal State would have, *inter alia*, all the rights over the continental shelf provided for by the Geneva Convention. Allowing the coastal State to extend its jurisdiction beyond the 200 nautical miles would make a mockery of the principle of the common heritage of mankind which had been introduced by the delegation of Malta in the United Nations General Assembly.[6]

105. With regard to the delimitation of the continental shelf between adjacent and opposite States, he pointed out that the judgment of the International Court of Justice in the North Sea Continental Shelf cases referred exclusively to the question of delimitation between adjacent States, and did not affect the validity of the median line principle, where it was a question of delimiting the continental shelf between opposite States. Some of the proposals presented had as their object the weakening or outright removal of that principle, since it did not meet the particular needs in a limited number of situations. In that connexion, it would be extremely difficult for the delegation of Malta to support proposals on the lines referred to. In the view of his delegation, the principle of the median line constituted an old-established rule of international law, especially as between opposite States, and should be embodied in

[6] See *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 92, document A/6695.

any new convention that the Conference might approve. The importance that many delegations attached to the principle of equidistance or of the median line was demonstrated by the fact that no less than six proposals before the Committee (A/CONF.62/C.2/L.3, 14, 22 and 25-27) gave adequate expression to that view. Malta, for its part, also recognized mutual respect for sovereignty and territorial integrity, equality and reciprocity.

106. The delegation of Malta reserved the right to intervene again on questions of delimitation in the context of other items on the agenda.

107. Mr. DJALAL (Indonesia) said that according to existing international law the coastal State had sovereign rights over the continental shelf to the depth of the 200-metre isobath and beyond that to the distance of exploitability. Accordingly, his delegation did not think it would be feasible or realistic to define the continental shelf only up to the depth of the 200-metre isobath, because many countries, in exercising in good faith their sovereign rights under existing international law, had already defined the shelf beyond the 200-metre isobath and had concluded numerous agreements with their neighbours on the delimitation of the continental shelf. It would be impossible to deprive them of what they considered their sovereign rights under international law. The task of the Conference must be to define how far beyond the 200-metre isobath the exploitability criterion should apply.

108. In his delegation's view, the limit of the continental shelf should be fixed at some point between the 200-metre isobath and the outer edge of the continental margin.

109. Nowhere did the Indonesian continental platform extend beyond 200 miles.

110. A relationship must be established between the economic zone and the continental shelf, a choice being made between the following possibilities. First, the régime of the continental shelf should continue to be applied to the sea-bed area, which, under the definition to be adopted in the future, would fall within the limits of the shelf, whether the shelf was narrower or broader than the economic zone of 200 miles. The régime of the economic zone should be applied to the sea-bed area beyond the continental shelf if the shelf was less than 200 miles wide. Secondly, the coastal State could apply the régime of the continental shelf to the whole of the economic zone, i.e., up to 200 miles, if it so wished. Thirdly, it could apply the régime of the economic zone to that sea-bed area. His delegation preferred the first possibility, thus combining the concepts of the economic zone and the continental shelf.

111. Referring to document A/CONF.62/L.4, of which his country was a sponsor, he said that it was designed to harmonize the different trends which appeared in the various texts.

112. He wished to emphasize the distinct nature of the concept of an archipelagic State and that of an archipelago forming part of a coastal State. That distinction was clearly indicated in the working paper in document A/CONF.62/L.4, which dealt with the two questions in different chapters. His country supported the concept of the economic zone, which was also dealt with in the working paper. Another issue closely related to the concept of the exclusive economic zone was that of the special rights of the land-locked and geographically disadvantaged countries. The sponsors of the working paper recognized the existence of those rights.

113. There were many other important problems before the Conference which had not been dealt with in the working paper. That did not mean that they were insignificant, but that the working paper was merely a starting point from which agreement or agreements might be reached on all the topics of the Conference.

114. Mr. ROE (Republic of Korea), speaking in exercise of the right of reply, said that the representative of North Korea had, in the course of his intervention, once more made irrelevant and groundless political statements concerning its continental shelf. He could not resist a feeling of indignation, as he could not understand the motive behind so much repetition.

115. In its general statement at the 26th plenary meeting the delegation of the Republic of Korea had exposed the fallacious allegations made by North Korea, which had again been repeated here.

116. They were unworthy of comment, but as a developing country which was becoming industrialized the Republic of Korea was in great need of oil, the import of which was an excessive burden on the nation. Consequently, a start had been made towards exploring the continental shelf, and licences had been granted to foreign companies to prospect for oil. Moreover, the area of the continental shelf was one in which there were concurrent claims of jurisdiction, but these had already found a practical and reasonable solution.

117. The representative of North Korea had claimed that half of Korea was occupied. He in turn wondered to what part of the country that referred; perhaps it was to the northern part, which had been taken over in 1945 and placed under the control of a few irresponsible people.

118. The Republic of Korea urged North Korea to use common sense and not to make irrelevant and provocative statements.

119. Mr. KIM (Democratic People's Republic of Korea), exercising the right of reply, said that the statement just made by the representative of South Korea revealed who the people were who had sold the maritime resources of the country, contrary to the interests of the nation.

120. The Democratic People's Republic of Korea advised the authorities of South Korea to listen to the voices of resistance of the people of South Korea, which was a victim of the so-called "agreement" and did not commit acts of treason in order to earn a few dollars, but was following the movement towards independence.

The meeting rose at 6.40 p.m.