

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/C.3/SR.9

Summary records of meetings of the Third Committee 9th meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume II (Summary Records of Meetings of the First, Second and Third Committees, Second Session)*

9th meeting

Friday, 19 July 1974, at 3.15 p.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Scientific research (*continued*)

[*Agenda item 13*]

Development and transfer of technology (*continued*)

[*Agenda item 14*]

1. Mr. MOMTAZ (Iran), while recognizing the increasing importance of marine scientific research and the need to facilitate the acquisition of knowledge in that field, emphasized that the requirements of the developing countries must be taken into consideration. Before embarking on the preparation of a juridical régime governing scientific research, the precise meaning and scope of that term should be defined. In the view of his delegation, scientific research activities the results of which could not immediately be used for economic or military purposes should be regarded as pure scientific research.
2. In the national sea and exclusive economic zone, the conduct of scientific research should be subject to the prior consent of the coastal State, on the lines of the provisions of the Geneva Convention on the Continental Shelf.¹ In the zone under national jurisdiction it should be compatible with the research programmes of the coastal State, scientific personnel from that State should participate in the research activities and the results should be placed at the disposal of the coastal State, together with all information necessary for the utilization of such data.
3. In the international zone, the proposed International Sea-Bed Authority would be responsible for safeguarding the interests of the international community as a whole. Scientific research in that area would be subject to the consent of the Authority, which could also engage in scientific research on its own. In that connexion, the technologically advanced countries should be invited to put their know-how and equipment at the disposal of the Authority.
4. Referring to the transfer of technology, he said that technology should cease to be the monopoly of certain States and that all countries should participate on an equal footing in the exploitation of what was termed "the common heritage of mankind". The transfer of technology could be carried out through the Authority, in collaboration with the International Hydrographic Bureau and the Intergovernmental Oceanographic Commission on the lines of the work already carried out in that field by the fisheries commissions.
5. In conclusion, he said that only the basic principles relating to the two items under consideration should be incorporated in the future convention, and the detailed regulations should be left to more specialized bodies.
6. Mr. HERNANDEZ DE ARMAS (Cuba) referred to the importance of the sea in the political and economic history of his country. With the help of friendly States, Cuba had recently begun to develop scientific research, which it recognized as a prerequisite to the rational and intensive exploitation of the resources of the ocean.
7. His country supported freedom of scientific research in the international zone beyond the limits of national jurisdiction and felt that if the concept of the common heritage of mankind was to have any meaning, the results of such research should be freely available to all countries. Furthermore, anti-pollution

regulations and the rules of international law should be observed.

8. With regard to the zone in which the coastal State exercised sovereignty over the renewable and non-renewable resources of the sea-bed and ocean floor and the subsoil thereof and the superjacent waters, his delegation felt that the coastal State had a right and a duty to control scientific research in the area adjacent to its coast up to a limit of 12 miles. The coastal State should also authorize scientific research, without discrimination, in the remainder of that zone up to a distance of 200 miles, provided that the State or organization carrying out the research complied with the following requirements: prior communication to the coastal State of the purposes of the research; participation by the coastal State in the research; immediate availability of data obtained to the coastal State; and observation of anti-pollution regulations and the other rules of international law.

9. With regard to scientific research in the zone under the national jurisdiction of a coastal State, his delegation emphasized that matters relating to enclosed or semi-enclosed seas and straits with opposite or adjacent coasts encircling large expanses of sea should be covered by the convention and that, provided it complied with the aforementioned requirements, freedom of scientific research should be guaranteed, without discrimination and independently of any common economic zones which might be set up as a result of regional or sub-regional agreements or any areas allocated to coastal States for the purpose of exploiting the subsoil. However, he commended efforts to establish regional research institutions and welcomed the establishment of a Marine Affairs Institute by the Government of Trinidad and Tobago.

10. His delegation shared the view that all countries had the right of access to the data obtained through scientific research. However, in the case of the developing countries in particular, that right would have no substance unless it was accompanied by regulations governing the transfer of technology, the training of specialists and scientists from those countries, and the development of research facilities to analyse and utilize such data in the national interest. The proposed International Authority should be responsible for promoting and controlling training programmes for specialists and scientists, the expansion and development of research facilities, and also the transfer of technology to the developing countries on a non-commercial basis. In that connexion, his delegation supported the proposals by the representative of Argentina at the 23rd plenary meeting. The demands of the developing countries for the transfer of technology on non-commercial terms were justified since the wealth and the technological superiority of many developed countries derived in part from imperialist, colonialist and neo-colonialist policies of exploitation of the developing countries.

11. Mr. YTURRIAGA BARBERAN (Spain) said that the future convention should include a set of general articles on the regulation of scientific research, which could subsequently be completed and developed by the specialized international organizations. Such a task was urgent since the Conference on the legal status of ocean data acquisition systems, held in Paris in 1972 had been unable to conclude its work pending the results of the current Conference. The concept of unrestricted freedom of research was no longer acceptable. It was necessary to regulate scientific research and achieve an equitable balance be-

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

tween the need to ensure the maximum expansion of scientific knowledge of the sea for the benefit of all mankind and the requirement duly to safeguard the economic interests and security of the coastal State.

12. The following questions had to be answered: what research was to be carried out, where, how and for what purposes? Regarding the definition of research, since it was not easy to distinguish between fundamental and applied research, it was necessary to adopt a unified concept of oceanographic research. As to where research was to be carried out, there was a contradiction between the ocean as a single subject of research and the variety of existing régimes covering different maritime spaces. In view of the legitimate demand of scientists for freedom of research, it was necessary to safeguard the rights and interests of the coastal State in the areas under its sovereignty or jurisdiction. In such areas, the coastal State must give its authorization, be able to participate in the research, and have access to the data obtained. Under those conditions, States should co-operate in research activities, especially when the research was carried out by international organizations, and provide all possible facilities, avoiding unjustified refusals, rapid replies, obstacles such as red tape, etc. There was a need to lay down clear legal rules governing the means of research and defining the rights and obligations relating thereto and the uses of the data and knowledge obtained. Those means were mainly oceanographic vessels, Ocean Data Acquisition Systems (ODAS) and artificial satellites. Lastly, the data obtained from scientific research should be made available in raw and processed form and subsequently published in order to benefit mankind as a whole. Draft articles governing the conduct of scientific research should be based on the principles of peaceful purposes, the equality of States, prior consent of the coastal State for scientific research activities in areas under its sovereignty or jurisdiction and international co-operation among States.

13. His delegation supported the views expressed concerning regulations to govern the transfer of technology from the developed to the developing countries. There were juridical and financial problems but the matter could be resolved given a spirit of good faith and international co-operation. He considered that the international organizations could play an important role in channelling technology by various means to the developing countries, and expressed the hope that the articles drawn up concerning the transfer of technology would lay the foundations of an authentic and substantive body of law, instead of only formal new laws.

14. Miss AGUTA (Nigeria) said that in the general debate in Sub-Committee III of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in 1973, fundamental or pure scientific research had been defined as a systematic study, investigation or experimental work to acquire knowledge of the natural processes and phenomena occurring in ocean space. The sea-bed Committee had been given the task of formulating regulations to protect the legitimate rights and interests in the oceans of mankind as a whole and of individual States. The position of her delegation on marine scientific research had already been stated at the 34th plenary meeting.

15. With regard to the transfer of technology, her delegation felt that the most effective means of transfer was by training and education. She suggested three methods of achieving that objective: first, the establishment of well-equipped regional or subregional marine scientific research centres in developing countries, possibly through a special agency under the International Sea-Bed Authority; secondly, tying access by developed countries to living resources in the economic zones of developing countries to the training of nationals of those countries in fisheries science, on the basis of equitable bilateral arrangements; thirdly, ensuring that licensing contracts for exploration and exploitation in the international area contained provisions

for the training of nationals from developing countries in oceanography, deep-sea mining technology and data analysis and interpretation. Blueprints and patents for the construction of plant and machinery should be made available to developing countries on reasonable terms. In the view of her delegation, the transfer of technology should be a contractual as well as a moral obligation. Assistance should be in the form of trade, not charity, in order to give that sense of interdependence which was essential for rapid and sound progress, to the ultimate benefit of both the developed and the developing countries and for the common good of mankind. Such a course of action would prevent domination and exploitation by the developed countries and give the developing countries a sense of security and equality and of being heirs to a common heritage.

16. Miss EMICH (Austria) said that over the past decades, there had been increased international co-operation in the field of oceanographic research. The interdependence between fundamental research and scientific activities for profit was quite obvious, but there were also scientific endeavours where the distinction would be difficult to make. Part of the information acquired through such research would undoubtedly become economically significant, and provisions should be made to ensure that that knowledge was applied for the benefit of mankind as a whole. In the territorial sea, all marine scientific research should obviously be subject to the consent of the coastal State. Outside the territorial sea, marine scientific research should in principle be unrestricted and open to all interested countries, including land-locked countries, subject to generally agreed provisions. The coastal State should be given prior notice of research programmes, an opportunity to participate in them and access to all data. She trusted that all countries were aware of the importance of basic non-commercial research, and realized that undue interference with it would be detrimental to the international community.

17. In the area under its jurisdiction, the International Authority should be responsible for the formulation and co-ordination of global scientific programmes, promoting training facilities for scientists from developing and land-locked countries and ensuring their participation in international research projects and the publication and dissemination of the data obtained. On the recommendation of member States, the International Authority should also be able to undertake scientific research on its own account.

18. With regard to the transfer of technology, she emphasized the great interest of land-locked countries in general, and Austria in particular, in training and education with a view to enlarging their expertise in marine scientific research. Land-locked States required adequate information on the exploitation of marine resources, the uses of ocean space and trends in marine affairs as a prerequisite for any decision-making in connexion with their participation in the common heritage of mankind.

19. Mr. BOHTE (Yugoslavia) said that unrestricted freedom of research was no longer acceptable. Freedom of scientific research had not been mentioned among the four explicitly formulated freedoms of the high seas of the International Law Commission, in its commentary on article 27 of the articles concerning the law of the sea adopted in 1956² had stated: "apart from the case of the exploitation or exploration of the soil or subsoil of the continental shelf . . . such exploitation had not yet assumed sufficient practical importance to justify special regulation." By the very same logic, the required conditions for the development of the freedom of scientific research on the customary law basis were lacking. The time had come now for the formulation of special regulations freed from traditional and outdated patrimonial legal concepts which would contribute to the establishment of a modern international régime.

² *Official Records of the General Assembly, Eleventh Session, Supplement No. 9, para. 33.*

In the case of exploration and exploitation of the resources of the international sea-bed area, such a régime should be based on the principles of common ownership, common management and equitable sharing benefits. In the international sea-bed area, a logical consequence of the application of the principle of the common heritage of mankind was that marine scientific research activities should be incorporated in the international régime of the sea-bed and regulatory powers given to the International Authority. Within the area under national jurisdiction, scientific research activities should be subject to the express consent of the coastal State. In that connexion, he referred to the proposals submitted by his country to Sub-Committee III of the sea-bed Committee (A/AC.138/SC.III/L.55).

20. His delegation attached great importance to the question of the transfer of technology. It had already stated its views on the matter at the 26th plenary meeting. He looked forward to the appearance of the study on the transfer of technology being prepared by the Secretariat. His delegation seconded the proposal by the representative of Peru that the Committee should hear a statement from the representative of the United Nations Conference on Trade and Development (UNCTAD) on that subject.

21. Mr. KOVALEV (Union of Soviet Socialist Republics) said that his delegation's views on the freedom of scientific research in the world oceans were contained in document A/AC.138/SC.III/L.31. The position taken by some delegations that the freedom of scientific research was not one of the recognized freedoms of the high seas was not supported by current law or usage. Although freedom of scientific research was not specifically included in the freedoms of the high seas mentioned in article 2 of the 1958 Geneva Convention on the High Seas,³ that article stated that the freedom of the high seas comprised, *inter alia*, four freedoms, and that all States should exercise those freedoms "and others recognized by the general principles of international law". The International Law Commission, which had prepared the draft convention, had noted in its commentary on article 27 that the list of freedoms was not exhaustive and that the high seas could be used for other purposes provided that they did not interfere with other uses of the high seas by other States, and it had specifically mentioned the freedom of scientific research. The Convention on the High Seas stated in its preamble that its provisions were generally declaratory of established principles of international law. Usage also supported the idea of freedom of scientific research in the world ocean.

22. Marine scientific research had led to many great scientific discoveries which had increased man's knowledge of his planet, the role of the seas and the potential and actual resources of the sea that could be used to raise the standard of living of peoples, particularly in developing countries. The importance of scientific research was demonstrated by a current experiment, TROPEX-74, a joint venture by 35 countries in Africa, Europe and Latin America, to provide long-term weather forecasts. The importance of scientific research was appreciated by all delegations, even those that felt there should not be complete freedom of scientific research; those delegations should realize that experiments might be hampered in future if there was any restriction on the freedom of scientific research, and that that would be prejudicial to the interests of all countries, large and small.

23. Regulation of scientific research, either by the coastal State or by international machinery, would also open the path to restrictions on research. The authorities responsible for regulating research would inevitably have to consider the potential usefulness of the proposed experiment and ensure that the expenditure involved would not be too burdensome. But it was extremely difficult, even impossible, for scientists to say in

advance what their experiments could lead to. He stressed the danger of giving bureaucrats, even bureaucrats who were themselves scientists, the right to restrict or regulate scientific research and close off any seemingly fruitless avenues of research. The inevitable legal consequence of abandoning the concept of the freedom of scientific research and replacing it by a régime governing such research would be attempts to restrict or even prohibit research in the international area of the sea-bed and in the high seas, including the continental shelf.

24. Turning to the question of research in coastal waters, he recalled that Mr. Strong, Executive Director of the United Nations Environment Programme, had said that several important international research projects could be successful only if also carried out in coastal waters. Although it might be said that all States would be willing to co-operate in such research, there should be a firm legal basis for it. Restrictions on research not related to exploration or exploitation of resources in the extensive economic zones, would, in the view of his delegation, have very grave consequences, particularly for future generations.

25. Recalling the statement made by his delegation at the 22nd plenary meeting, he reiterated his delegation's position that agreement on the most important aspects of the law of the sea, including scientific research, should include provisions recognizing the right of coastal States to establish economic zones extending for 200 miles and to exploit all living and mineral resources in their zones. That approach provided a basis for business-like negotiation to seek acceptable solutions. The basis for negotiation in the Third Committee should be the freedom of scientific research in the world oceans, including freedom of research in the economic zone, which was not related to the exploration and exploitation of its living and mineral resources. Unfortunately, some delegations would not accept that approach, and advocated that the freedom of scientific research be eliminated everywhere, by recognizing the right of coastal States to authorize or reject applications for any research in the economic zone, by granting the same right to the future International Sea-Bed Authority in respect of the rest of the world ocean, including its waters. Such a demand would weaken the very basis for possible agreement. His delegation was willing to take account of the desires and aspirations of all countries, and particularly those of the developing countries. If agreement was reached on the freedom of scientific research, any effort to strengthen the provisions of the convention on co-operation to increase the research capacity of developing countries through participation by their nationals in marine research, training for their nationals, transfer of the results of scientific research and transfer of technological and scientific know-how, would meet with understanding from his delegation. The Soviet Union was willing to co-operate in multilateral programmes for the development and exploitation of the resources of the sea-bed. The positions and interests of all should, however, be taken fully into account if the Conference was to achieve its objective. He expressed his conviction that the spirit of realism and of sobriety and the desire to search for constructive solutions would prevail in the work of the Committee.

26. Mr. MBOTE (Kenya) said that all previous attempts to define marine scientific research had been unsatisfactory, and were not necessary for the purpose of the Committee's work since there was no clear-cut boundary between fundamental and applied research, or between research for peaceful and non-peaceful purposes. It would therefore be best not to waste any time trying to define scientific research, which Kenya took to mean any investigation or activity carried out anywhere for the purpose of acquiring knowledge pertaining to the marine environment, including its resources.

27. The vital importance of marine scientific research did not in any way place marine scientists above the law. On the contrary, it required the close integration, co-ordination and su-

³United Nations, *Treaty Series*, vol. 450, p. 82.

pervision of those activities with a view to avoiding waste and duplication of energy, resources, and time.

28. The so-called freedom of scientific research did not and should not exist in the areas under national jurisdiction, and it was only assumed to exist in the high seas simply because, for the time being, no one was responsible for that area. It was not one of the freedoms explicitly recognized by the existing international law of the sea. In view of that fact, the most important assignment of the Conference was to formulate a convention which, on the one hand, recognized the importance of marine scientific research to development and, on the other hand, the need for those carrying out marine scientific research to co-ordinate their activities and to respect and adhere to the laws and regulations of the coastal State or of the appropriate international authorities.

29. It was the duty and responsibility of coastal States to promote and co-ordinate scientific research in the areas under their national jurisdiction, as it was the duty and responsibility of the proposed International Authority to do the same for the areas beyond the limits of national jurisdiction. Neither the coastal State nor the International Authority could satisfactorily discharge those duties and responsibilities unless given full powers to control and direct marine scientific research in their respective areas. Thus, scientific research in any area was subject to the prior consent of the coastal State or of the appropriate international authority. The coastal State should be prepared to give prompt consent to individuals or organizations wishing to carry out marine scientific research within the areas under its national jurisdiction provided that: the researchers submitted detailed proposals outlining the project, its objectives and its modalities; provision was made for the participation of nationals of the coastal State if they so wished in the planning and execution of the project; the researcher communicated the findings of the research to the coastal State for publication either by the coastal State alone or in co-operation with the researchers; the researcher undertook to comply with coastal State regulations concerning the protection of the marine environment; and the researcher undertook to respect the other legitimate uses of the sea. In the areas beyond the limits of national jurisdiction, similar conditions should be enforced by the appropriate International Authority.

30. With regard to the transfer of technology, the Kenyan delegation believed that the transfer of technology was not merely the transfer of equipment from one country to another, but rather of capabilities from nationals of one country to nationals of another aimed at making the recipient country capable of manufacturing similar or different equipment and of carrying out scientific research and managing its resources independently.

31. More emphasis should be placed on the training of personnel, particularly in developing countries, through the establishment of technical institutions and manufacturing industries. The appropriate United Nations bodies should be invited to promote such projects. Failing such action, developing countries could not be expected to discharge satisfactorily their duties and obligations in respect to the management, development and conservation of marine resources; consequently they would not be able to enjoy the benefits of those resources.

32. Despite the apparent acceptance of the sovereign rights of coastal States over the resources within the limits of their national jurisdiction, some delegations had imposed certain restrictions on those rights which amounted to a denial of the coastal State's right to take appropriate measures to promote scientific research beneficial to its needs and to prevent marine pollution. No State, however, could claim to have sovereignty over any living resources unless it possessed effective powers with regard to those two activities. Should those powers be denied, the concept of the economic zone or patrimonial sea, which had received wide acceptance, would be rendered empty and meaningless. Kenya hoped that such was not the intention

of those who opposed the coastal-zone approach to the problems of scientific research and the prevention and control of marine pollution.

33. Mr. AL-HAMED (Iraq) said that while differing views had been expressed within Working Group 3 of Sub-Committee III of the sea-bed Committee as to the approach which should be taken with regard to scientific research, an objective and co-operative research policy respecting the rights and interests of all States could reconcile those conflicting views.

34. In areas under the jurisdiction of the coastal State, namely, the territorial sea, the continental shelf and the subsoil thereof and zones of specific economic jurisdiction like fishing zones or the patrimonial sea, scientific research was the concern of the coastal State itself and could be carried out by other States only with the consent of the former. In areas beyond national jurisdiction, scientific research on marine living resources should be conducted by the specialized agencies such as Food and Agriculture Organization of the United Nations (FAO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), with the co-operation and participation of the coastal States and land-locked countries in the proximity. As to the minerals of the sea-bed and the subsoil thereof, research could be governed by the international régime in accordance with the terms of General Assembly resolution 2749 (XXV) of 1970. Concerted programmes of international marine scientific research should be worked out jointly between the international organizations and the States concerned.

35. The participation of developing countries in scientific research projects should be facilitated and encouraged because of the close natural relationship between the national and international areas. The results of international research should be regarded as part of the common heritage of mankind.

36. In areas where there were special circumstances, such as semi-closed seas, scientific research beyond the limits of the territorial sea should be conducted by all the coastal States through regional arrangements, and with assistance from the specialized agencies and the technologically advanced countries. Such assistance might consist of financial contributions or the training of personnel.

37. In view of the complicated and costly nature of the application of technology to the exploration and exploitation of marine resources, it was desirable for a number of States to pool their efforts and capabilities on a regional basis and to seek the assistance of international organizations in obtaining the advanced technology they needed. As the developing countries were well aware, scientific research and technological know-how were the basic elements of economic prosperity.

38. Mr. HAKAPAA (Finland) emphasized the close connexion between scientific research and several other topics being considered by the Conference, in particular the preservation of the marine environment and the exploration and exploitation of the sea-bed and its subsoil, which were being considered by the First and the Second Committees. Continuous co-ordination of all questions related to scientific research being considered by the different Committees was therefore imperative.

39. With regard to the form of the future convention, the Finnish delegation believed that the general provisions concerning scientific research should be placed in a separate chapter, while certain special provisions relating to scientific research should be inserted in various parts of the convention according to their special characteristics.

40. The distinction drawn by the Finnish representative in the sea-bed Committee in March 1973 between fundamental marine scientific research and research aimed at the exploitation of marine resources was, in spite of certain difficulties of interpretation, useful particularly for defining the rights of foreign researchers within the economic zone of a coastal State or on its continental shelf.

41. Scientific research in the international sea-bed should be considered in the context of the principle of the freedom of the high seas. It would not be beneficial to the common interests of nations to restrict that freedom to any considerable extent. Any research carried out in that area should, however, be in accordance with the General Assembly's 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)). The International Sea-Bed Authority should be informed in advance of all research projects to be taken in that area and should possess a certain amount of power to ensure that research activities were carried out in the spirit of the Declaration of Principles.

42. The Finnish delegation attached special importance to the principle of that Declaration according to which States should promote international co-operation in scientific research exclusively for peaceful purposes by co-operating in "measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes". The efficient transfer of technology was one of the basic means for bringing about a just distribution of the benefits derived from the world's oceans.

43. Mr. NEEDLER (Canada) said that the proper management of the marine environment and its resources depended upon knowledge of the sea. However, intellectual curiosity was also a basic human drive, and there was no greater oppression than that which stifled the spirit of an inquiry. The fundamental objective of the Canadian delegation was to ensure the adoption of provisions promoting the development, dissemination and application of scientific knowledge of the marine environment and facilitating the conduct of scientific research for those purposes.

44. A number of realities had to be taken into account in developing a sound régime for marine scientific research. It was difficult, if not impossible, to distinguish between pure research and research for economic or military purposes. The results of many research programmes were all too often not shared with or made available to the States in whose coastal waters the research had been carried out. Only a few countries had significant marine scientific research capacity. Many countries had not reached a stage of development where they could make full use of such results as were made available to them by other countries or outside agencies. The mere affirmation of the freedom of scientific research did not take those realities into account, since it ignored abuses of that freedom and did not provide for the legitimate interests of coastal States in activities adjacent to their shores. A means for remedying those shortcomings was provided by the concept of management of the marine environment and its resources which had been unanimously endorsed by the United Nations Conference on the Human Environment held at Stockholm in 1972. That concept underlay Canada's approach to the law of the sea and was inherent in the concept of the economic zone or patrimonial sea and the common heritage of mankind.

45. The coastal State must necessarily have the authority to manage and control the resources of its economic zone or patrimonial sea so as to protect fully its economic and security interests. The sovereign jurisdiction of the coastal State over research in its internal and territorial waters and on its continental shelf, already recognized under existing international law, had to be maintained, and complemented so that any research within the economic zone or patrimonial sea not covered by existing law could be undertaken only with the approval of the coastal State. Appropriate criteria for facilitating such approval should be established with due regard to the rights and interests of the coastal State. For research in areas outside national jurisdiction, some system of notification and registration of research programmes with an appropriate international body such as the Intergovernmental Oceanographic Commission or the International Sea-Bed Authority was necessary.

46. The concept of proper management of marine resources did not rule out international co-operation in marine scientific research, and the Conference should establish certain basic principles in that realm. Marine scientific research should be promoted in general, while States should be encouraged to co-operate with each other and with appropriate international organizations in reaching agreements for the facilitation of such research. Bilateral, regional or global agreements on the exchange of knowledge, information and technology should be promoted or strengthened.

47. The strengthening of the research capabilities of developing countries and the transfer of technology to them was necessary if the developing countries were to benefit from the resources of the economic zone or patrimonial sea and if they were to live up to their responsibilities with regard to the management of marine resources. For such countries, resource development took precedence over scientific development, and, to a certain extent, they had to rely upon scientific research carried out by others. Within areas under their jurisdiction, however, the developing countries wanted to have some voice in setting the priorities for such research, and to participate not only in the execution of scientific ventures by outside agencies, but also in the planning and follow-up of those ventures so as to obtain training for their technical and scientific personnel and strengthen their research capabilities.

48. The transfer of technology should apply to the whole range of uses of the sea, including the exploration and exploitation of sea-bed resources, the utilization and conservation of fisheries, and the prevention and control of marine pollution.

49. Mr. POJANI (Albania) said that his delegation supported the right of the coastal States themselves to define the width of their territorial waters and patrimonial sea and to exercise full national jurisdiction over those areas. It followed from that basic stand that scientific research in the areas under national jurisdiction was subject to the control of the coastal State.

50. Under the banner of the freedom of scientific research, the two super-Powers were trying to secure for themselves the freedom to send spy ships to all parts of the world, to conduct "research" on how they could more easily threaten the freedom and independence of other countries and to seize their fish and mineral resources more effectively.

51. The imperialist Powers which had a monopoly in scientific research had harnessed science in the service of their goals of domination. They feared that the establishment of adequate rules which respected the sovereignty and national jurisdiction of coastal States might hinder scientific research, and they argued that such rules might even be detrimental to developing countries. What was really hindered and threatened by the establishment of appropriate rules was their own policy of aggression and maritime plunder. In opposition to that policy, the coastal States were demanding the establishment of a new law of the sea that would include rules for the conduct of scientific research by methods guaranteeing their political and economic independence. While the developing countries were in need of maritime scientific research and technology, they would not allow themselves to be tricked into purchasing science from the super-Powers at such high prices as to jeopardize their political and economic independence. Developing countries should strengthen their co-operation in the field of maritime research with all other peace-loving countries on the basis of equality, reciprocity and non-interference in the internal affairs of other States.

52. The conduct of scientific research in areas under national jurisdiction should be subject to the prior consent of the coastal State, which had the right to control such research and to establish such rules and take such measures as it deemed necessary.

53. The conduct of scientific research in areas under national jurisdiction should be subject to the prior consent of the coastal State, which had the right to control such research and to establish such rules and take such measures as it deemed necessary.

sary whenever such research prejudiced its national interests. The coastal State had the right to participate directly in such research and to receive all the data obtained, the publication or communication of which should be subject to the coastal State's consent.

53. Scientific research in the area beyond national jurisdiction should not be a monopoly of the imperialist Powers and industrially developed countries but should be carried out according to the appropriate rules that were to be established for the benefit of mankind as a whole.

54. Mr. GBILIMI (Guinea) said that his delegation was in favour of scientific research for peaceful purposes as a necessary tool for the exploration and exploitation of marine resources in the common heritage of mankind for the well-being of the international community in general and that of the developing countries in particular. A great many practical questions such as the control of pollution, the selection of fishing grounds and the exploitation of mineral resources depended upon progress in the ocean sciences.

55. No international organization or physical or juridical person should undertake research within the limits of national jurisdiction without the prior consent of the coastal State. The coastal State should also have the right to participate on an equal footing at all stages of the research project. Those intending to carry out scientific research in the territorial waters of a State should also be required to submit well in advance the goals and the object of the research, the nature of the equipment to be used, the number of persons to be involved, the areas in which those activities would be carried out and the proposed period for such research. Coastal States should have the right to visit and check the installations before the beginning of operations and should be able to maintain observers on the research site. Research projects to be carried out within the limits of national jurisdiction should be devised in keeping with the scientific priorities of the coastal State involved, and consultation with the latter should be obligatory.

56. It was a well-known fact that many documents relating to scientific research carried out during the colonial period were missing from certain developing countries while they lay in the archives of the former colonial Powers, often completely forgotten.

57. To put an end to such forms of dependence, research findings, including basic data, samples, and written reports, should be communicated to the coastal States as the work progressed. The publication of certain research findings obtained within the limits of national jurisdiction should be subject to the prior consent of the coastal State.

58. Some form of international machinery possessing adequate authority should be able to regulate wisely the scientific research carried out in the area beyond the limits of national jurisdiction and to communicate the findings to the entire international community.

59. Assistance from the technologically developed countries and the specialized international agencies could be channelled by means of bilateral agreements into the establishment of scientific centres, the financing of research projects, and the local training of personnel in the developing countries themselves. Such local training would have the double advantage of preparing large numbers of researchers and enabling them to adapt their knowledge to the specific realities of their countries. Nevertheless, all efforts to date had failed to reduce the ever widening gap between the developed countries and the so-called developing countries. The progressive deterioration in the terms of trade of the developing countries was due to a lack of equality in the relations between them and the developed countries. There was also the danger that the transfer of technology under existing conditions would result in what might be termed a "deterioration in their terms of transfer".

60. The international machinery that was going to be set up would have to reduce the economic and technological gap

between certain States and others. With regard to international co-operation, the Guinean delegation sought to promote an international co-operation in which there was no deviousness or guile, and no question of begging on the part of the recipient countries.

61. Mr. KAKODKAR (India) said that marine scientific research called for a multidisciplinary, co-ordinated and co-operative effort on a global scale. The Committee, entrusted with the task of working out the legal framework within which such research could be carried out in an orderly and efficient manner, must balance the importance of scientific research against other relevant factors such as national security, the need for effective exploitation of resources of the zone under national jurisdiction, and the responsibility of the International Sea-Bed Authority.

62. Scientific research and transfer of technology covered exploration and exploitation of non-living resources of the seabed and ocean floor and subsoil thereof; exploration, exploitation, conservation and management of the living resources of the sea; preservation of the marine environment and the monitoring, control and prevention of marine pollution; acquisition, processing and interpretation of geological, geophysical, and geochemical data concerning the sea-bed and ocean floor and subsoil thereof; acquisition, processing and interpretation of oceanographic data in the marine environment; and the acquisition of general knowledge of the seas and oceans.

63. His delegation supported co-operation in marine scientific research with all other States and international agencies and organizations, and the free exchange of personnel, technology, equipment, training and other facilities. Due consideration should, however, be given to legitimate national interests. Research in the economic zone and territorial waters of a coastal State should be undertaken either by the coastal State itself or with the prior express consent of the coastal State. Information should be provided to the coastal State in an application for research; experts and vessels of the coastal State should be entitled to participate in research; the coastal State should be furnished raw data and samples as well as the analyses and results of such data and samples; and publication of data should be with the express consent of the coastal State concerned. The research agency should comply with the regulations of the coastal State concerning resource management, health, environmental protection and security. Where such regulations were disregarded, the coastal State should have the right to terminate the research activities and take any other steps it considered necessary in accordance with its laws. The coastal State should also be able to reserve certain specific areas of its zone exclusively for research by its own agencies and vessels. Any disputes over marine scientific research in the economic zone of a coastal State should be settled in the judicial tribunal of, and in accordance with the law of, that State.

64. Turning to the question of marine research in the international sea-bed area, he said that the International Sea-Bed Authority should be given the necessary powers to regulate research. He urged the advocates of absolute freedom of scientific research to take account of the basic difficulty of drawing a line between scientific research as such, and activities which affected security, protection of the environment and exploration and exploitation of resources. The Authority should be empowered to regulate scientific research so that it could properly discharge its responsibilities and obligations. Scientific research in the waters superjacent to the sea-bed and ocean floor of the international area and the air space above should be free, subject only to provisions relating to the protection of the marine environment and freedom of navigation and so forth. Activities in the seas would be increasing in future, and that would naturally impose certain restrictions. He stressed that marine scientific research should not form the legal basis for any claim to the area where the research was conducted or to its resources.

65. Turning to the question of the transfer of technology, he said that it was a matter of concern for all because technology had to be developed continuously through joint efforts. In the case of the developing countries, it was of vital interest and unless active and effective measures were taken to transfer to those countries the technology currently in the possession of a few advanced countries, the vast resources of the sea would not be accessible to them. He urged the developed countries which attached great significance to the need for free scientific research to appreciate that the best way to establish a climate of co-operation and trust was to share freely their technology with the developing countries. The legal powers of regulation and control which his delegation advocated for the coastal State would probably provide for very free scientific research, once trust was established through the sincere efforts of the developed nations to transfer their technology to the developing nations. The International Sea-Bed Authority should act as a general reservoir to which all nations should contribute their technology and from which all nations could draw. The questions of particular significance in that context were training of personnel, supply of necessary scientific and other equipment, financial assistance to developing countries, promotion of bilateral as well as multilateral agreements between States and the competent organizations concerned for the transfer of technology and establishment of permanent institutions to ensure regular and systematic transfer of technology and its dissemination.

66. Mr. RUHAIM (Libyan Arab Republic) said that scientific research in the area under national jurisdiction was subject to the approval of the coastal State. Only those States whose existence was sanctioned by the rules of international law could be considered to be legitimate coastal States. States or international agencies wishing to conduct scientific research activities in areas under national jurisdiction should be required to submit in advance a request specifying the objectives of the proposed research, the scientific team to carry it out, the means to be employed, the areas involved, and the period of the research. The coastal State had the right to participate on an equal footing in those research activities. Publication of results should be subject to the prior consent of the coastal State. Scientific research activities should not produce any harm to the renewable or non-renewable resources.

67. With regard to research in the international area, it was necessary to establish a new international régime to carry out such activities, and to establish rules and regulations governing such activities. The results of those research activities must benefit all States without discrimination.

68. With regard to the transfer of technology, a small number of States should not have a monopoly of such technology which should not be kept secret but should be transferred to the developing countries by UNESCO and other international agencies. Technical and scientific training programmes for personnel from developing countries should be set up under the supervision of the proposed International Authority. Developing countries ought to be kept regularly informed about the newest advances in technology.

69. Mr. BAYONNE (Congo) said that scientific research and the transfer of technology could help to establish more equitable economic relations between developed and developing countries. He rejected any definition of scientific research which helped to maintain the gap between the developed and developing countries. To ensure that scientific research was carried out for the good of mankind, the following rules should be observed: the coastal State should have a sovereign right to regulate scientific research in its 200-mile zone; scientific research in that zone could be carried out only with the prior consent of the coastal State concerned; the coastal State should be entitled to participate in that scientific research and to be informed of the details of the research programme and its results; the results of the research should be published by agree-

ment with the coastal State; research should not pollute the marine environment, and research agencies should comply with the national and international regulations on the protection of the marine environment against pollution. Co-operation in scientific research should also be encouraged with a view to increasing the research capacity of the developing countries by strengthening existing research centres and institutes in the developing countries, establishing new centres to meet the real needs of the geographical areas concerned, which could be financed on a regional basis, and providing training for scientific personnel in the developing countries to enable them to utilize the scientific knowledge they acquired through research. That would help to reduce the gap between the developed and developing countries in marine technology.

70. One aspect of scientific research was that related to pollution of the marine environment. As the developed countries were responsible for much of the pollution, their know-how and patents should be used to control pollution and should be accessible to the developing countries.

71. Scientific research in the area beyond national jurisdiction should, in the view of his delegation, also be regulated effectively under the international machinery.

72. Mr. ODA (Japan) rejected the view that scientific research had never been considered one of the freedoms of the high seas. The International Law Commission had explicitly stated, in its commentary on article 27 of its articles concerning the law of the sea, prepared in 1956, that, although only four freedoms—freedom of navigation, freedom of fishing, freedom of laying submarine cables and pipelines, and freedom of flying over the high seas—were mentioned in the draft articles for the Convention on the High Seas, there were other freedoms, including the freedom to conduct scientific research on the high seas. At the 1958 Conference, one delegation had submitted a proposal (A/CONF.13/C.2/L.7)⁴ listing five freedoms of the high seas, including the freedom to undertake research, experiments and exploitation; the fact that that proposal had not been adopted did not mean that the idea of the freedom of marine scientific research had been rejected. The list of freedoms of the high seas in the Convention of the High Seas was not exhaustive, and there was therefore no legal barrier to the freedom of scientific research on the high seas. He maintained that scientific research, at least in the international area, was and should remain open to all without discrimination and without interference by any State.

73. He fully supported proposals that scientific research in the area beyond national jurisdiction should be carried out for the benefit of mankind as a whole and that the results of research should be accessible to all interested States. International scientific co-operation should be fostered to enable all nations to participate in such research on an equal basis and to have reasonable access to the results. It was important to distinguish between research to gain knowledge of the marine environment and exploration as a preliminary step leading to commercial exploitation. Scientific research should not serve as a basis for claims to exploitation, as indicated in the Declaration of Principles. Access to knowledge and information acquired through scientific research should be facilitated through international co-operation. His Government wished to co-operate fully in promoting the transfer of technology and results of marine scientific research to developing countries. Scientific research in the international area should be reconciled with other legitimate uses of the high seas, the most important points being to prevent excessive collection of specimens, undue disturbance of the marine environment, and seismic investigations that might damage the marine environment. Prevention of pollution was extremely important.

⁴ *Official Records of the United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. 58.V.4), vol. IV, Annexes.

74. The task of the Committee was to establish a legal framework under which freedom of scientific research of the ocean could be safeguarded as fully as possible and results of research exchanged and disseminated.

75. Mr. GUEYE (Senegal) said that scientific research and the transfer of technology were very important to his country and to all developing countries, as indicated in the Addis Ababa and Mogadiscio Declarations of the Organization of African Unity (A/CONF.62/33). Although scientific research constituted a whole, a distinction could be drawn between pure research and industrial research. The question of how to regulate research, particularly industrial research, which was important for developing countries, was one that required urgent solution. Different States or groups of States should be able to call on international organizations or industrialized countries to carry out industrial marine research which would be of use to their economy, for example, research on the conservation and exploitation of fish resources, pollution and accident prevention. International organizations and industrialized countries should be able to carry on research in the territorial waters or economic zone of a coastal State, if that State approved the research programme and conditions; a coastal State could hardly refuse an application to carry out research if the usefulness of the research was established and if it would be furnished with the results of the research.

76. Transfer of technology was of vital importance to the developing countries, and personnel qualified in marine technology were needed by the developing countries. International organizations and developed countries should give every encouragement to training institutes such as those in France and the United States of America, and such institutes should also be established at the regional level.

77. The CHAIRMAN, summing up the deliberations of the Committee on scientific research and transfer of technology, said that the need to promote marine scientific research to increase man's knowledge of the phenomena and processes of the marine environment for the rational management of the resources of the sea and preservation of the marine environment for the benefit of all had been accepted by all delegations. There also seemed to be complete agreement on the need to establish a viable framework of general conditions and requirements for the conduct of marine scientific research. Suggestions had been made concerning bilateral, regional and global co-operation in international scientific research, and on the dissemination of knowledge, the exchange and publication of scientific data, with increasing stress on the role of international institutions directly or indirectly involved in marine scientific research.

78. The main issue that had emerged was the proper determination of the scope and extent of the rights and obligations of coastal States in the zone adjacent to their territorial sea and of all other States engaged in marine research in that zone.

Different views had been expressed on the relationship between coastal States and other States, some suggesting that the coastal State should give prior authorization for and should be able to participate in the research in that zone. He suggested that the Committee should give consideration to the modalities of co-operation between the coastal State and foreign States carrying on research in the zone adjacent to the territorial sea.

79. The Committee should also consider the feasibility and desirability of distinguishing between fundamental non-commercial scientific research and investigation, on the one hand, and economically oriented marine research and exploration on the other hand.

80. Interesting proposals had been made on the transfer of technology to developing countries by increasing their research capacity and training their nationals. A study was being prepared by the Secretariat on that subject. There was already a very broad basis of agreement in the Committee, and it should now proceed to draw up draft articles on the transfer of technology.

81. The Committee should now begin practical negotiations on the major outstanding issues with a view to identifying areas of agreement. General principles and draft articles for inclusion in the future convention should be prepared, and attempts should be made to reduce or eliminate the alternative formulations of existing draft articles. He expressed his conviction that the spirit of co-operation would continue to prevail. The Committee should make use of the preparatory work done before the Conference and the proposals which had been submitted at recent meetings as a basis for negotiations.

82. Replying to a question from Mr. KOVALEV (Union of Soviet Socialist Republics), he said that the Secretariat study on the transfer of technology would be made available as soon as possible.

83. Mr. BUSTANI (Brazil) requested clarification from the Chairman as to whether he had been referring to the 200-mile economic zone under the national jurisdiction of coastal States when he had spoken of the "zone adjacent to the territorial sea".

84. The CHAIRMAN replied in the affirmative; he had used the expression "zone adjacent to the territorial sea" in order to preserve his impartiality.

The meeting rose at 6.30 p.m.

10th meeting

Friday, 26 July 1974, at 3.30 p.m.

Chairman: Mr. YANKOV (Bulgaria).

Reports of the Chairmen of the informal meetings

1. The CHAIRMAN drew the attention of representatives to the following documents which had been circulated and which were pertinent to the deliberations of the Committee: the text of the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area (A/CONF.62/C.3/L.1), which had been circulated for reference at the request of the representative of Denmark; CRP/MP/2; CRP/MP/3/Add.1 containing proposals and amendments to WG.2/Paper No. 8/Add.2 in the informal comparative table of texts on the

preservation of the marine environment (CRP/MP/1) and the texts contained in volume 1, pages 86 to 88 of document A/9021 and Corr.1 and 3.

2. Mr. VALLARTA (Mexico), speaking as Chairman of the informal meetings dealing with item 12 (Preservation of the marine environment), said that discussions had taken place in the morning and afternoon of 24 July and in the morning of 25 July. It had been decided to have a fresh reading of the texts prepared by the Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Juris-