

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/SR.192

192nd Plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XVII (Plenary Meetings, Summary Records and Verbatim Records, as well as Documents of the Conference, Resumed Eleventh Session and Final Part Eleventh Session and Conclusion)*

228. There is no need to recall once again here the many attempts of the international community over the past 20 years to achieve a codification of an international legal régime of the sea. Unfortunately, all tended to promote an unjust international order for the sea and consecrate the supremacy of the great maritime nations at the expense of the weak nations and new States acceding to international sovereignty.

229. The declaration of principles governing the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, adopted by the General Assembly in resolution 2749 (XXV), which proclaimed the new concept of the common heritage of mankind, laid the first true foundations for a new international legal régime of the sea and genuine co-operation among nations.

230. There have been 10 long years of arduous and delicate negotiations costly to the poor countries in human and material efforts, and the Government and the people of Gabon are pleased that they have successfully concluded with the adoption of a universal Convention establishing new and most just legal norms.

231. Nevertheless, we recognize that this instrument suffers from serious inadequacies and shortcomings which many States find difficult to accept and which, furthermore, my delegation constantly pointed out throughout the negotiations of the Conference. In particular, these deal with the right of innocent passage of warships in the territorial waters of coastal States; limitation of production; and the definition of a system of compensation adequately protecting developing countries producers of the same minerals as those to be exploited in the sea-bed.

232. However, my delegation, like many others, in a spirit of compromise gave up its legitimate claims and, since April 1982, we have considered the new Convention as the sole instrument, within the framework of the United Nations system, guaranteeing the legitimate interests of all nations on the basis of mutual respect. Hence the Government and the people of Gabon firmly support the ideals expressed in the provisions of the new Convention and will contribute as best they can to their realization. Accordingly, Gabon will, without reservations, be a party to the new Convention and will participate with due attention in the work of the Preparatory Commission.

233. Finally, my delegation urges all those who have participated in the drafting of this great, historic work for mankind but who may still have some doubts about it to join us, on 10 December, in signing our universal common work, a true

bulwark of peace, security, international co-operation and development.

234. Mr. POMPEE (Haiti) (*interpretation from French*): Mr. President, I should like to join preceding speakers and congratulate you, on behalf of my delegation, on the impeccable way in which this Conference is being held. These congratulations go as well to the Government of Jamaica, which has done everything possible to make our stay here a pleasant one.

235. No one can dispute that the objectives of North-South dialogue constitute an essential condition for the international community to achieve once again a more just balance and a less dangerous situation.

236. While the avalanche of rhetoric on this subject may already have reached the saturation point, the present session offers both the North and the South the prospects of a future with fishing resources, petroleum resources, manganese nodules—and much more. So, since we are dealing with matters relating to the sea, we can easily understand why Montego Bay, with its natural beauty, was chosen as the site for this session by the representatives during the session at Geneva.

237. The Convention to be opened for signature is the culmination of lengthy efforts for the benefit of all, since those who are already rich may become even richer and those who are poor may become less poor, in view of the extensive resources of the sea-bed: immense fishing resources and considerable petroleum resources, the proven reserves of which, according to estimates prepared for the United Nations, may reach 170 billion barrels for oil and 2 to 3 trillion barrels for exploitable marine resources.

238. As for polymetallic nodules, which are generally made up of manganese, nickel, copper and cobalt, the sea-bed is covered with them.

239. The basic principle that industrialized countries could adopt would be an open-door policy in the area of transfer of technology, because the use of the sea involves interactions, interpenetrations and mutual ties.

240. Those who are hesitating should recall that sea-bed resources are destined to play an important role in human survival and the quality of human life and that North and South must share life on this earth.

241. Tomorrow my country will sign both the Final Act and the Convention without any reservations.

The meeting rose at 1.05 p.m.

192nd meeting

Thursday, 9 December 1982, at 3 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*concluded*)

1. Mr. CLINGAN (United States of America): I wish first to express my delegation's gratitude for the generous hospitality of the Government of Jamaica, for its invitation to serve as host for these proceedings in this beautiful environment, and for the excellent arrangements it has provided. I should also like to express our appreciation to you, Mr. President, to the other officers of the Conference and to the members of the secretariat, all of whom have laboured in these negotiations over many years.

2. I am here to sign, on behalf of the United States, the Final Act of the Conference. It had been our hope that we

would be here for another purpose as well. The United States approached the work of the Conference early this year with renewed dedication and hope. As the President of the United States said on 29 January 1982, the United States remained committed to the multilateral process for seeking agreement on the law of the sea. With that in mind, the United States delegation participated fully in the eleventh session and sought a final result that would command global consensus. Unfortunately, the Conference did not achieve that result.

3. The United States recognizes that certain aspects of the Convention represent positive accomplishments. Indeed, those parts of the Convention dealing with navigation and

overflight and most other provisions of the Convention serve the interests of the international community. These texts reflect prevailing international practice. They also demonstrate that the Conference believed that it was articulating rules in most areas that reflect the existing state of affairs—a state of affairs that we wished to preserve by enshrining these beneficial and desirable principles in treaty language.

4. Unfortunately, despite these accomplishments, the deep sea-bed mining régime that would be established by the Convention is unacceptable and would not serve the interests of the international community.

5. The Conference undertook, for the first time in history, to create novel institutional arrangements for the regulation of sea-bed mining beyond the limits of national jurisdiction. It attempted to construct new and complex institutions to regulate the exploitation of these resources in a field requiring high technology that has not yet been fully developed, and massive investments. We had all hoped that these institutions would encourage the development of sea-bed resources which, if left undeveloped, would benefit no one. A régime which would promote sea-bed mining to the advantage of all was the objective towards which we laboured.

6. We regret that that objective was not achieved. Our major concerns with the sea-bed mining texts have been set forth in the records of this Conference and I shall not use this occasion to repeat them. Suffice it to say that along the road some lost sight of what it was the world community had charged us to do. They forgot that in the process of political interchange the political and economic costs can become too high for some participants to bear. They forgot that to achieve the global consensus we all sought, no nation should be asked to sacrifice fundamental national interests.

7. The result is that consensus eluded us on deep sea-bed mining. Each nation must now evaluate how it must act to protect its national interests in the years to come.

8. We need not fear the future. In particular, those elements which promote the general community interests with respect to navigation and the conservation and utilization of resources within national jurisdiction reflect long-standing practice. The expectations of the international community in these areas can and should be realized, because we recognize that certain practices are beneficial to the community as a whole. For example, the Convention has recognized the sovereign rights of the coastal State over the resources of the exclusive economic zone, jurisdiction over artificial islands, and jurisdiction over installations and structures used for economic purposes therein, while retaining the international status of the zone in which all States enjoy the freedoms of navigation, overflight, the laying of submarine cables and pipelines and other internationally lawful uses of the sea, including military operations, exercises and activities. In addition, the Conference record supports the traditional United States position concerning innocent passage in the territorial sea. The rules reflect the hopes of the international community; they are very wise and obviously meant to last.

9. Institutions, however, that do not command consensus and that are not beneficial to the community as a whole raise serious problems. In these circumstances, alternative ways of preserving national access to deep sea-bed resources are necessary, just and permitted by international law.

10. As we begin the journey before us, we should face the future without rancour or recrimination, ready to meet the challenges that lie ahead. The United States faces the future in that spirit. In the pursuit of its own legitimate and vital interests, my country will act with responsibility and with awareness of the interests of others. This very pursuit is necessary to the development of the resources from which we can all benefit. Although States will take different roads from

here, I believe they share a common goal—peace and the rule of law in the uses of the world's oceans.

11. My delegation wishes to join the many previous speakers who paid a tribute to the memory of the late Hamilton Shirley Amerasinghe of Sri Lanka, who laboured diligently as your predecessor, Mr. President, in the earlier stages of this Conference. None who knew him will forget his warm and outgoing personality, his wit or his many significant contributions to the work of the Conference.

12. In conclusion, on a personal note, I should like to express my gratitude to you, Mr. President, and through you to all concerned, for the friendship and co-operation I have enjoyed through the many years of this Conference.

13. Mr. GHAZALI SHAFIE (Malaysia): On this historic occasion I should like at the outset to say how happy I am to be on this beautiful island, Jamaica, a country with which my country enjoys extremely friendly relations. On behalf of the Malaysian delegation I wish to express our sincere appreciation to our gracious host, the Government of Jamaica, for the excellent arrangements and facilities for this occasion. It is fitting that the signing of the Final Act of the Third United Nations Conference on the Law of the Sea should take place in a developing country, one which is an active member of the Group of 77. Indeed, it is largely due to the perseverance and commitment of the Group of 77 that we are able to witness here today the beginning of a new international order and co-operation on the law of the sea.

14. I should also like to take this opportunity to pay a tribute to all participants who have contributed to the work of the Third United Nations Conference on the Law of the Sea and in particular to you, Sir, for the very outstanding manner in which you have presided over the last two sessions of the Conference since your election to the presidency in 1981. Through your wisdom, dedication and qualities of leadership you have adroitly guided the Conference to its successful conclusion.

15. We are gathered here in Montego Bay to sign the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea. They represent the culmination of years of difficult and protracted negotiations and painstaking efforts. Changing international situations and rapid advancement in marine technology demand a new international order and co-operation concerning the sea, capable of promoting international peace besides providing for a more equitable sharing of the resources of the sea amongst nations. Existing conventions and norms have proved inadequate if not obsolete in meeting the present requirements of the international community.

16. We all know that the ocean occupies 70 per cent of the world's surface and man increasingly is turning to the ocean for his economic well-being. If future generations are to inherit a marine environment that is a source of life and not a cause of dispute or conflict, it is imperative that a new global order should be adopted.

17. The adoption of the Convention is without doubt an outstanding achievement of the United Nations and testimony to the ability and willingness of Member States to submerge partisan interests for the benefit of all. The task has not been easy. The vital and often conflicting interests and concerns of some 150 nations both large and small, developed and developing, had to be accommodated. The Convention was the result of compromises and concessions which were accepted, after much soul-searching, in the interest of helping to secure an orderly legal régime on the sea as well as to promote the equitable sharing of the resources of the world's ocean. Some may fault the Convention for having failed to satisfy their specific concerns. But which international legal instrument could meet the demands of all? So long as it reconciles to the greatest extent possible the basic interests

and concerns of the members of the international community and is capable of commanding universal adherence, we should give it our full support and commitment.

18. The Convention is a comprehensive text regulating all aspects of the uses of the ocean and its resources. Embodied in its provisions are existing rules of international law as well as new concepts and rules whose application should facilitate international communication and regulate both peaceful uses of the sea and ocean and the equitable and efficient utilization of their resources, which could benefit the whole of mankind. One of its most innovative concepts is the principle that the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction are the common heritage of mankind. The system of exploitation of resources in the Area has been so designed in order that all States may enjoy fair and rightful benefits from the sea.

19. The Convention represents a delicate balance of interests among nations confronted with different problems. The importance of the Convention to particular groups of countries, especially developing small island States, cannot be overemphasized. Their fragile economies are dependent to a large extent on the certainty and abundance of harvests from an unpolluted marine environment. It should be a cause of satisfaction to all that the Convention, through its provisions on the various maritime zones, protects their interests and concerns. Furthermore, the concept of the common heritage of mankind ensures the island States an equitable sharing of the mineral resources of the Area. The ignoring of the legitimate interests of those States by a refusal to accept the Convention will in the long term imperil, I think, world peace and stability. On the other hand, its early implementation will enhance the security and economic well-being of island States which, in turn, will be in a position to contribute positively to peace and stability in the world.

20. Malaysia welcomes the conclusion and adoption of the Convention and will also sign it, immediately following the signing of the Final Act. We would strongly urge all other countries to do so, as we believe it is through international law, universally adhered to, that world peace and security can be safeguarded.

21. In this connection we deeply regret the decision of certain countries—one of which we have just now heard—not to be parties to the Convention, and I urge them to reconsider their decision. To those countries which oppose the Convention solely because they find the provisions on the exploitation of deep sea-bed mining objectionable, I would appeal to show realism, wisdom and less recalcitrance towards the Convention. They should view the Convention in its totality and not from the narrow perspective of a single issue. In today's world, gone are the days of grandfather rights, gone are the days of frontier claims and unregulated freedom in the exploitation of resources. These anachronistic practices of the past are unacceptable to the international community, since they benefit only the technologically advanced countries. In any case, in the interest of ensuring universal acceptance of the Convention, the so-called rights and claims of a few technologically advanced countries in deep sea-bed mining have been accommodated. These States should therefore not insist on having their way on this issue. In this regard, I hope that the United States and those other States which are reluctant to be parties to the Convention will realize that they have much more to gain from the Convention than by pursuing other arrangements such as a mini-treaty with like-minded nations. We believe, in particular, that United States participation in the Convention will enhance its national interests, both in global terms and in the long term, while its non-participation and thus its isolation may turn out to be costly.

22. Malaysia, being a coastal State, is happy that the Convention clearly establishes the rights and obligations of both

the coastal and the maritime States in the various maritime zones, to mutual advantage. For the first time, an international convention has given recognition to the concept of archipelagic States. At the same time, the Convention also ensures that if the archipelagic waters of an archipelagic State lie between two parts of an immediately adjacent neighbouring State the existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue to be respected. In regard to the Indonesian archipelagic State, we are indeed most gratified to mention that Malaysia and Indonesia, reflecting the very close co-operation and co-ordination between the two countries, concluded a treaty in February 1982 which provides for the continuance of Malaysia's rights and legitimate interests.

23. The Convention incorporates also a new concept in relation to straits used for international navigation, namely, the concept of transit passage. Lying, as we do, on one side of the narrow and shallow Straits of Malacca, which is one of the most important and busiest navigational waterways in the world as well as an important source of livelihood for our people, Malaysia particularly welcomes those provisions in the Convention which seek to ensure the safety of navigation as well as the protection of the marine environment. In this respect, together with Indonesia and Singapore, our neighbours sharing the Straits of Malacca, we have reached a common understanding with major user States of the Straits on measures that coastal States may adopt in accordance with the relevant provisions of the Convention.

24. The successful conclusion of the negotiations relating to the United Nations Convention on the Law of the Sea is eloquent testimony to the determination of the international community to achieve the common good where wisdom and good will have prevailed. It is time now to focus our attention on another area of common interest—which my Prime Minister mentioned in his address at the current session of the General Assembly in New York. I refer to Antarctica, where immense potentialities exist for the benefit of all mankind.

25. Mr. AGUILAR (Venezuela) (*interpretation from Spanish*): It is certainly with a sense of nostalgia and regret that I am speaking at this final part of the Third United Nations Conference on the Law of the Sea. As the representative of Venezuela at this Conference, at its preparatory stage and at all its sessions, I have been able to appreciate the extraordinary effort made to carry out successfully the mandate received from the General Assembly in resolution 2750 C (XXV) of 17 December 1970. Under, first, the skilful guidance of Hamilton Shirley Amerasinghe and then, following his very sad death, under your leadership, Mr. President, and with the very efficient co-operation of the secretariat, headed during the first two sessions by the experienced jurist and diplomat Constantin Stavropoulos, and since that time by the equally qualified jurist and diplomat Bernardo Zuleta, delegations made tireless efforts during 12 years to achieve by consensus a broad and comprehensive convention on the law of the sea, a convention adapted to the needs of our times.

26. Venezuela, which with very few reservations signed and ratified the four conventions initially adopted by the United Nations on the law of the sea, participated very intensively in the difficult and complex negotiations during these years, convinced that it was necessary to bring the law of the sea up to date, taking account of the progress of science and technology and bearing very much in mind the new composition and orientations of the international community. In solidarity with the developing countries which make up the Group of 77, we worked very hard to achieve a new convention that would be the result of a truly democratic exercise and reflect the interests and aspirations of all peoples and respond to their legitimate desire to establish a new international economic and legal order.

27. The Convention which was adopted in New York on 30 April this year and is to be opened up for signature tomorrow in this beautiful and hospitable city in Jamaica, our American brother-nation, while satisfying all the basic aspirations of the developing countries and even though it certainly has many positive aspects, does present difficulties for my delegation and some others. Constrained by time as we are, it is not possible to point out and analyse all these positive aspects, but on this occasion I could not fail to mention the establishment of the new institution of the exclusive economic zone and the elaboration of the legal régime of the Area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, which expressly, in accordance with the Convention, constitutes the common heritage of mankind.

28. The declaration that this Area and its resources are the common heritage of mankind and the norms that make up the régime for the area do not, of course, respond fully to all the aspirations of the developing countries, because they are the result of a compromise that has made them acceptable to all of us in our attempts to achieve a consensus. In any event, they do constitute a very positive step towards the progressive development of an international law of the sea.

29. Venezuela would like to take this opportunity to reiterate its solidarity and support for the position taken by the Group of 77 in this and other spheres of common interest.

30. Unfortunately, for reasons set forth in the statement I made as head of the Venezuelan delegation when explaining our vote at the 182nd plenary meeting of 30 April 1982,¹ we were forced, in spite of our agreement with the great majority of the provisions of the Convention and its annexes, to cast a negative vote. Since reservations could not be entered with regard to articles 15, 74 and 83 and paragraph 3 of article 121, suffice it to say that to the extent that these apply to maritime and submarine areas of opposite and adjacent States, we were forced to register our objection to those articles and to state that had there been a separate vote we would not have voted in favour of them. We reiterate that position at this time.

31. With that understanding, Venezuela will sign the Final Act, which faithfully reflects the work of the Conference and does not contain, as is appropriate for documents of this nature, any value judgement on the results of that work. Venezuela cannot, however, sign the Convention itself.

32. I should not like to conclude without once again paying a personal tribute to the memory of Hamilton Shirley Amerasinghe, that outstanding statesman who, together with you, Mr. President, skilfully conducted this Conference, with such firmness, tact and a sense of humour. I shall always have a fond memory of our work together and of the friendship that both of you extended to me. Nor can I at this final stage of the Conference fail to mention the work accomplished by our colleagues on the Bureau: Paul Bamela Engo, Chairman of the First Committee; Alexander Yankov, Chairman of the Third Committee; Alan Beesley, Chairman of the Drafting Committee; and Ken Rattray, the Rapporteur General, whose friendship too I greatly value.

33. I should like to express my particular gratitude for the co-operation and friendship of all those who worked with us in the Second Committee—the vice-chairmen, the rapporteur and the chairmen of the various working groups established over the years—as well as to the secretariat staff who assisted us on that Committee.

34. I should also like to thank all those who at this final session or on earlier occasions have made generous reference to my work in the Conference. That has made the labour and problems of these long years very, very worthwhile. I should

particularly like to express my gratitude for the applause I received upon coming to this rostrum.

35. In conclusion, on behalf of my Government and my delegation and on my own personal behalf, I should like to thank the Government and people of Jamaica not only for the facilities they have made available for the holding of this session but for their warm and fraternal welcome.

36. Mr. AHMED (Pakistan): I should like to express first of all the pleasure of the delegation of Pakistan at seeing you, Mr. President, preside over this historic final session of the Third United Nations Conference on the Law of the Sea. The successful culmination of the Conference is in no small measure due to your qualities of impartiality and wisdom, the leadership that you provided to the Conference at critical moments and your unrelenting efforts to find acceptable solutions and compromises.

37. As we add a most important chapter to the history of international treaty-making we cannot fail to recall the bold initiative taken by Mr. Pardo and the momentum provided to the Conference by the late Hamilton Shirley Amerasinghe in giving concrete shape to the principles propounded by Mr. Pardo.

38. Our thanks are also owed to the members of the Collegium and other officers of the Conference who assisted you in conducting negotiations on issues of vital importance to the Conference. We should also like to pay a tribute to the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and to his able and hard-working associates for the excellent contribution they made to the work of the Conference as well as for the efficient organization of the sessions and the intersessional meetings. Their devotion to the cause of the Conference has been exemplary. We are confident that their energies and abilities will continue to be utilized during the forthcoming preparations for the entry into force of the Convention.

39. We recall with particular satisfaction the fact that the negotiations for the drawing up of the Convention, which lasted for nearly a decade, were conducted in a frank and friendly atmosphere notwithstanding the complexity of the issues and vital national interests involved. All States, large or small, developed or developing and with differing national interests, were provided ample opportunity to give expression to and seek solutions for the problems peculiar to them. During our deliberations, participating States and their representatives demonstrated unflinching courtesy and understanding in order to arrive at a universally acceptable Convention.

40. Finally, I should also like to express our gratitude and appreciation to the Government and people of Jamaica for having made, at such short notice, excellent arrangements for the Conference in the beautiful surroundings of Montego Bay. We are deeply touched by their generosity and warmth, which are in evidence all around us.

41. We fully appreciate the difficulties faced by many States with regard to some of the provisions of the Convention which might not be entirely in consonance with their paramount national interests, since my own country also faces problems with and has apprehensions about the application of a number of provisions of the Convention. Some of our difficulties pertain to the articles on the areas within national jurisdiction. While the provisions of the Convention relating to the territorial sea and the exclusive economic zone are generally compatible with the fundamental aims and objectives that inspired legislation in Pakistan concerning its sovereignty and jurisdiction over the sea adjacent to its coast up to the limit of 200 miles, we believe that the sections relating to innocent passage could have been clarified further on the lines suggested by a number of delegations, including my own, at the last session of the Conference.

¹See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

42. Another area that causes us concern is the possible interpretation of the question of access to the sea, which we believe is only a notional right and will be governed by bilateral agreements regarding transit.

43. My delegation, believing firmly in and committed to the concept of the common heritage of mankind with regard to the resources beyond the limits of national jurisdiction, is of the view that the Convention does not adequately reflect that concept in the mechanisms, machinery and system of exploitation adopted by the Conference. It is our apprehension that in practical terms the major beneficiaries of the parallel system as adopted will be a few industrialized countries. The system is not likely to lead to a balance in the exploitation between States or private companies, on the one hand, and the Enterprise, on the other; and despite determined efforts during the negotiations by the developing countries to protect their legitimate and just interests and aspirations, it is heavily tilted in favour of the industrialized world.

44. Despite our misgivings, we are keenly aware that a convention of this nature—an ambitious, comprehensive and complex venture to draft rules and regulations for the governance of an area which covers almost three quarters of the earth's surface—can hardly be expected to satisfy all States in its entirety. The Convention represents a compressive package and, in our view, the advantages to individual States and the international community as a whole far outweigh any elements that may not fully satisfy individual members.

45. Our delegation had hoped that the Convention, finalized after painstaking and protracted negotiations, would be adopted by consensus. We were disappointed therefore when that did not prove to be possible. However, we are greatly encouraged by the fact that an overwhelming majority of States voted in favour of the Convention. We are also gratified that many of those States which abstained during the vote have signified their intention to sign the Convention, demonstrating their firm desire to promote a régime of international law to govern the uses of the oceans. We believe that any effort by any State or group of States to accept or apply the Convention on a selective basis, or to adopt measures aimed at undermining the Convention through the adoption of alternative régimes for exploiting the resources of the seabed which have been declared to be the common heritage of mankind, would be futile, illegal and shortsighted. We sincerely hope that States which do not find it possible to sign the Convention at this stage will reappraise their policies and join the international community in its march forward towards justice and equity in international relations in all their aspects.

46. With that hope, with the desire that the Convention should be universally adhered to as a demonstration of our solidarity with the third world and the international community of nations, as a token of our respect for international law and despite the difficulties we face with some provisions of the Convention, Pakistan has decided to sign the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

47. The signing of the Convention in Montego Bay marks the beginning of a new era. The international community must strive to ensure that this legal instrument, in its implementation, will promote peace, justice and progress for all nations and peoples.

48. Mr. BLANCO (Uruguay) (*interpretation from Spanish*): Uruguay is especially pleased to take part in this final session of the Third United Nations Conference on the Law of the Sea and will sign the historic Convention which is the fruit of so many collective efforts of the international community.

49. As this Conference comes to the end of its work, my delegation wishes to give due recognition to those who with patience and wisdom have contributed to the Convention: to

you, Mr. President, for your guidance, capability and dedication; to your distinguished predecessor, Mr. Hamilton Shirley Amerasinghe; to the Conference officials and to all the delegations which have participated in this hard and lengthy process.

50. This is a memorable occasion for Uruguay. My country, throughout its history and as part of its national character, has nurtured adherence to peace and development and the existence of international law. Thus, it has made an active contribution to all regional and international efforts to organize on the basis of law relations amongst States in the most varied fields.

51. It is therefore easy to understand that a convention covering an extremely broad gamut of subjects in a vital area would be considered by my country as a highly significant step in the struggle for law. It establishes precise norms pertaining to maritime spaces; it creates the legal framework for the peaceful, rational and just exploitation of the wealth it contains; it opens up ways for co-operation and creates noble institutional formulas to organize it; it eliminates factors of conflict and tension and provides additional means for the peaceful settlement of any conflicts which might arise; and it consolidates at the international level the rights of States which are set forth in custom, in national legislation and in bilateral agreements.

52. We should like to note the admirable and praiseworthy efforts at conciliation and balance made to attain those results in the midst of varying opinions and contradictory interests. The consensus which typified a great part of the Conference's work was a tangible expression of that spirit and at the same time proved to be an example as a method of work among sovereign and equal nations. We hope that in the not-too-distant future the signing of or accession to the Convention by other States will re-establish consensus, once the difficulties of the moment have been overcome. My Government, fully respecting the sovereign decisions of each State, desires to express that sincere wish.

53. The Preparatory Commission, the specific functions of which include precisely one of those areas that have presented difficulties for some States, could play an important role in removing those difficulties through the wise and well-balanced exercise of its statutory powers.

54. Uruguay, which, together with other sister nations of Latin America, took part more than 15 years ago in the crusade for the recognition of the rights of coastal States over maritime areas adjacent to their coasts, cannot but feel that this session is the climax of a long effort in regard to a principle that originally seemed chimerical.

55. Today guardianship by this international Convention and recognition by so many nations consolidate those rights which were formally declared by my country in the exercise of its sovereign decisions; at the same time, these are now tangible rights in international law. In that connection, the provisions of the Convention on maritime areas adjacent to coasts are compatible with the purposes and essential bases which inspire Uruguayan legislation relating to sovereignty and jurisdiction over those areas.

56. In particular, the juridical nature of the exclusive economic zone leaves no room for doubt that it is a *sui generis* area of national jurisdiction that is not a part of the high seas. By the same token, and with reference to the Area, the following concepts, *inter alia*, are compatible with the international text: the rights and residual competence of the coastal State; the exclusion of non-peaceful uses by third States; the exclusion of installations and structures of third States.

57. When we look at the road we have travelled, the success of this effort that was undertaken and fulfilled within the

United Nations, whose role in the process of the development of international law must be highlighted and expanded, is apparent.

58. It is encouraging to note that, by means of the method of consensus, and with creativity and a will to negotiate on the part of the parties, it has been possible to draft just and well-balanced formulas, largely acceptable to the international community. We should now like the United Nations, in a similar spirit and using a similar method, to approach matters other than the law of the sea, thus continuing in other fields the task of developing a legal framework for human activity.

59. When we assess the results obtained in the Convention it is also gratifying to note the contribution made by the Special Representative of the Secretary-General, Mr. Bernardo Zuleta; by the Executive Secretary of the Conference, Mr. David Hall; and by the Conference secretariat as a whole. We hope that this excellent team will also be involved in the delicate task that lies ahead of preparing the instruments provided for in the Convention in this vast field of law.

60. My Government expresses thanks for the generous hospitality of the Government and the people of Jamaica in serving as host to this historic session and also for the forthcoming session of the Preparatory Commission. It is a pleasure to note that this is taking place in Jamaica, a country that is linked to important events for Latin America and that represents the firm expression of the will and effort towards development.

61. Mr. VARVESI (Italy) (*interpretation from French*): Mr. President, at the outset I should like to thank the Government of Jamaica for the exquisite hospitality it has offered us during this final session of the Conference.

62. The signing of the Final Act of the Third United Nations Conference on the Law of the Sea is in fact the high point in a process that has been taking place for many years. Italy, a country with an age-old maritime tradition, with flourishing activity in the merchant-shipping field, a country whose national security has to be ensured largely on the seas and which is already engaged in sea-bed exploration, could not fail to participate actively in all the sessions of the Conference.

63. The signing of the Final Act is also the most fitting moment to take stock of this lengthy negotiation. From the standpoint of the Italian Government, that requires making certain distinctions, although the Convention is considered to be an indivisible whole. Throughout the Conference the Italian delegation has expressed its approval of the codification of certain fundamental aspects of the law of the sea, referring in particular to the territorial sea, to innocent passage, to navigation in general and to the conservation of living resources, the preservation of the marine environment and scientific research.

64. Italy believes that the Conference has resolved those aspects of the law of the sea which we could term traditional in a satisfactory manner on the whole, even if some of these provisions can be considered to be part of customary law already.

65. With regard to the rules governing the exclusive economic zone and the freedoms recognized for all States in it, we believe they constitute a well-balanced compromise solution between the aspirations of coastal States and the requirements of maritime States.

66. The provisions on the settlement of disputes doubtless represent a step forward in comparison with more recent codification conventions and an important guarantee for all States.

67. Furthermore, Italy has constantly voiced its reservations concerning Part XI of the Convention, referring to the exploitation of the sea-bed. While recognizing the fundamental

principles behind that part of the Convention, Italy fears that the institutions it provides, by their number and their complexity, will be able only with great difficulty to ensure a viable system for the exploitation of the sea-bed. In the view of my Government, the establishment of organs which might not guarantee profitable exploitation of the resources could become a heavy burden for the international community, including the developing countries.

68. A more thorough and lengthy examination of this matter, particularly at the last few sessions, would probably have enabled us to attain more satisfactory formulas. The Italian Government, in view of its decisions with regard to the Convention, would like the work of the Preparatory Commission to proceed on the basis of a pragmatic approach, allowing for the smoothing out of certain difficulties we have in regard to the régime and machinery for the exploitation of the international area.

69. Italy is a member of the European Economic Community and, by reason of that membership, has transferred competence to the Community in certain matters governed by the Convention. It wishes to take this opportunity to express its satisfaction with the role which the Conference has recognized for the Community, which is now invited to sign the Final Act. In that connection, the Italian delegation recalls the statement by the Danish delegation on behalf of the Community and its member States.

70. It is therefore on the basis of the overall assessment I have just made, which takes into account the various aspects of the Convention, that Italy is ready to sign the Final Act of the Conference, whose result constitutes in any event a major contribution to the codification and the progressive development of international law.

71. In conclusion, I wish to join all those delegations which have spoken before me in expressing heartfelt appreciation for the tireless and devoted efforts made by you, Mr. President, by the Special Representative of the Secretary-General and by the Secretariat.

72. Mr. REGENVANU (Vanuatu): First of all I should like to join delegations that have already spoken and extend my delegation's sincere gratitude to the Government and people of Jamaica for their warm hospitality and for successfully acting as host to this historic and important final session of the Conference on the Law of the Sea in this beautiful city of Montego Bay. I would also express our thanks and praise to the members of the United Nations Secretariat, to the many committees involved in the long process of formulating the Convention over the years, to the Secretary-General's Special Representative and to you, Mr. President, and your distinguished predecessor, now departed from us, for the collective concern and hard work that have culminated in the United Nations Convention on the Law of the Sea that we now have before us.

73. Vanuatu is a newly independent island State situated in the South West Pacific. Vanuatu is a newcomer to the international community, and this is the first session of the Third United Nations Conference on the Law of the Sea that it has attended. Because of this my delegation, on behalf of my Government, wishes to express its gratitude to those delegations present here, especially those from island States like Vanuatu, which have continually presented the case of island States to ensure that the Convention reflects and safeguards the vital interests of these small island States. Similarly, we express fraternal appreciation to the Group of 77 for their honourable work in speaking out and ensuring that the wishes of developing countries were respected and included in the Convention.

74. Although newly independent, Vanuatu has already anticipated the Convention in small ways by successfully passing and enforcing its Marine Spaces Act and its Fisheries Act—

laws which closely and faithfully reflect the principles embodied in the Convention which we are about to sign. As a country with few land-based resources and one that is slowly developing in a fast expanding world, Vanuatu looks to its exclusive economic zone as a potential resource area for future exploitation and development.

75. As emphasized by other delegations, this United Nations Convention on the Law of the Sea is truly a legal monument in the development of international law and an outstanding landmark in human history. Such a landmark is important to all newly independent countries, because so far international law still suffers from the stigma of having been formulated and determined by the larger, richer and militarily more powerful countries of our planet.

76. Although island States in the South Pacific are comparatively small in size, we have set up regional bodies through which we can work together for different purposes. I am glad to say that the Forum Fisheries Agency, which is an agency of our regional organization, the South Pacific Forum, has been able successfully to initiate programmes relating to fisheries and related resources. This success has come about despite adverse attitudes on the part of certain foreign States concerning the migratory species of the tuna fish. As island States in the South Pacific region, we maintain good co-operation in the interest of all, and in this respect Vanuatu looks forward to holding in the near future delimitation talks, consistent with the Convention, concerning common maritime boundaries with its neighbours.

77. I now take the liberty to tell this session about two things which my Government has maintained from the days when our country was still colonized by foreign States. The first is that my Government supports the right of all peoples to attain self-determination and to be free from illegitimate or colonial rule. This issue is important in the Pacific region in the context of the Convention about to be signed. Unless the several countries colonized in the Pacific region become independent, the fact remains that their sea and air, no less than their land, areas and resources will continue to be exploited by the present colonizing nations, using the Convention as a convenient tool of exploitation. In the Pacific region this would extend to the exploitation of marine resources, sea-bed resources and air space, as well as the use of those areas for transporting nuclear weapons and materials or testing nuclear and other weapons. Some of these things are already happening.

78. My Government's second policy which affects and is affected by the Convention before us concerns the introduction of vessels carrying nuclear weapons and materials into Vanuatu's territorial waters. My Government is one of those in the Pacific region that is supportive of a nuclear-free Pacific zone. This ideal is the dream of many people and Governments in the region where we come from and a dream that is difficult, and now probably impossible, to achieve because of the right of freedom of the high seas and the right of innocent passage conferred respectively by articles 87 and 17 of the Convention. Nevertheless, my Government has declared Vanuatu and its territorial waters to be a nuclear-free zone. This policy, although not a domestic law created by Parliament, is an Executive declaration which accords it domestic legal status as far as foreign vessels are concerned. My Government has taken this position since Vanuatu became an independent State in July 1980. It is therefore with great regret that we note the provisions of article 17 and related articles permitting the right of innocent passage of foreign ships across territorial waters. Nevertheless the Convention is an epic, and all nations could probably point to some part of it that is not completely compatible with their domestic or regional ideals.

79. Despite what I have said, as the head of my Delegation I shall sign the Final Act and the Convention tomorrow, 10

December 1982, on behalf of the Government of the Republic of Vanuatu, and I shall sign those two documents with the humility of a small island State and with the pride of a nation sharing and co-operating with the family of nations. As the Minister of Land and Natural Resources and the Minister responsible for the environment and its conservation, I am glad to note the comprehensive provisions contained in Part XII of the Convention about the marine environment, conservation of living resources and anti-pollution measures. My Government attaches great importance to environmental issues aimed at maximizing production and minimizing destruction, for the benefit of future generations. I can only remind myself and all of us here that it is often very easy to forget about conservation of the marine environment and resources in the name of development and foreign-exchange earnings.

80. In conclusion, it is sad to see that, after years of serious negotiations by all concerned, some countries have decided not to join with us in signing the Convention. In Vanuatu we have a saying that goes: "Before we get on the field to play football, we must know the rules and we must accept them". For nations to use and exploit the sea and water areas of this planet without a single, supreme guiding law amounts to a lawless planet. We hope that those countries that will not be signing this Convention on Friday, 10 December, will review their positions and abandon any plans for a mini-convention. After all, there are many countries which became independent after the adoption of the 1958 Convention and to which that Convention was unfair and, in many cases, of no use. Just as the developing countries have had to endure the often one-sided nature of traditional and customary international law, so in the spirit of give-and-take the larger countries should now take it upon themselves to endure the reality of this Convention, to sign it, to ratify it and to work with all in its implementation.

81. Mr. SAEMALA (Solomon Islands): On behalf of the Government and people of Solomon Islands I extend to you, Mr. President, and to everyone at this Conference our greetings of friendship. To our friendly hosts the Government and people of Jamaica go our very special thanks for the hospitality they have so graciously accorded all of us here at Montego Bay. And to all who have made a contribution in one way or another, great or small, to the fine achievement of the Convention we now have before us, we would express our sincere gratitude. In this respect, Solomon Islands associates itself with the special and respectful tributes to the late Hamilton Shirley Amerasinghe and to you, Sir, for your outstanding contributions to this historic Convention.

82. We have been lured here this week from all corners of the world, whether out of conviction, respect or sympathy, or for any other reason, to participate in and witness the successful conclusion of the nine-year voyage of this Conference. The canoe and the sails and the paddles for this long voyage—that is, the details of the Convention—have been described in various ways with many different words by so many eloquent speakers that I need not do so myself. Yet its destiny is the betterment of mankind. The breadth of the representation here in Montego Bay signifies the importance we respectively attach to the Convention, whether we be land-locked, coastal, archipelagic or island States. In the view of Solomon Islands, the Convention confirms and clarifies our rights to our best advantage.

83. Solomon Islands therefore welcomes the Convention with the understanding that it may and can be improved. Thus, Solomon Islands, out of conviction and with confidence, will sign the Final Act and the Convention. As an archipelagic State in the Pacific Ocean, and like our neighbours in our region, we appreciate only too well the economic potential with which we are blessed in the seas that surround our islands, and we are confident that this Convention will assist us as a legislative framework for our national legislation for

the development of our sea resources and for the protection and preservation of our marine environment. In this endeavour, we shall turn to the United Nations for help.

84. Solomon Islands endorses the disappointment and regret expressed at the fact that not all of the original participants are able to sign the Convention tomorrow. The attitude of those countries that will not sign takes away that touch of the family unity of our international community with which this Convention should be identified. At this stage we can only express the hope that those countries will one day find it in their interest to become signatories for the sake of humanity and of international order and co-operation. We urge those same countries to honour the Convention and the wishes of its signatories in the course of their maritime activities, especially in areas where there was consensus during the negotiation process of the Convention.

85. I should like now to congratulate participating members, especially those who will sign tomorrow, for this splendid accomplishment, given the complexity of the issues involved and the often difficult circumstances in which negotiations were held. At a time when we tend to despair at the state of our world and its many problems, this display of international co-operation is indeed heartwarming, especially for us small island nations. Let us salute it as a classic example, and may it remain one area in which we may continue this co-operation in the interest of a progressive world for mankind.

86. Mr. MIZZI (Malta): I wish first of all to thank the Government and people of Jamaica for serving as hosts to the signing session of the Third United Nations Conference on the Law of the Sea, for their very warm hospitality and for the excellent arrangements they have made to make sure not only that the proceedings go on smoothly but also that the representatives' stay is a comfortable one. There is no doubt that they have succeeded.

87. Secondly, I should like to renew my congratulations to Jamaica for having been chosen by the Conference to serve as host to the future International Sea-Bed Authority. I also bring the wishes of my Government to the Government of Jamaica and to all the Governments here represented in the hope that what was achieved with so much tenacity and hard work will be brought to fruition in the near future. We believe that tomorrow's opening of the Convention for signature will take us a significant step forward towards that goal.

88. The road to Montego Bay was long and fraught with pitfalls, but the Conference has given a new meaning and new hopes to multilateral diplomacy. Even though, rather unexpectedly, a dark shadow was cast over it in the last stages of the negotiations—a shadow which has not yet been lifted and does not show signs that it will be in the near future—the Convention represents an unprecedented achievement in international law-making; and it would be a serious mistake to think that its influence upon the behaviour of States will be the less simply because some of them, however important they are, find objection to one part of it. Agreement has been reached by practically all participants on the other issues relating to the uses of the seas and oceans, and one cannot but expect that that agreement will be honoured. We would be turning the clock back if we were to act differently from what the Convention provides for in such matters, for instance, as the exclusive economic zone or the extent of the territorial waters.

89. On the other hand, that agreement was possible only because the participants were prepared to compromise; and, considering the magnitude of the Convention, it is difficult to conceive how it could have been achieved otherwise. But that is why we have always referred to it as a package, and that deal cannot be disturbed.

90. At this point, I wish to say a few words about two matters in which the interests of my country were most closely involved. The first was the question of the delimitation of the

continental shelf and of the exclusive economic zone. On this issue, the negotiations were protracted and laborious, and the final outcome is as much the result of the political maturity and sense of responsibility of the negotiators as it is of the unstinted and repeated efforts by Mr. Manner of Finland and of the final intervention by you, Sir, as President of the Conference.

91. As regards the other matter, namely, the innocent passage of warships through territorial waters, again for the sake of general agreement we went along with a compromise contained in a statement by the President of the Conference on 26 April 1982,² duly recorded in the annals of the Conference.

92. However, on the eve of the signing of the Convention, we feel that we ought to reaffirm our conviction that it recognizes the right of coastal States to adopt measures to safeguard their security, including the requirement of prior authorization or notice for the innocent passage of warships through territorial waters. My country therefore reserves the right, if it deems it necessary, to submit a declaration in this respect at the appropriate time in accordance with article 310.

93. The new Convention has brought to the fore as never before the issue of regional co-operation. Indeed, in our view, the Convention imposes such co-operation. In the Mediterranean Sea, the area I come from, not one single State can utilize the full extent of the 200 miles as the limit of the exclusive economic zone. Thus, by the simple fact that the Convention recognizes that limit, it has imposed on all the littoral States of the Mediterranean common frontiers which have yet to be drawn up by common agreement and co-operation. States that for millennia have regarded themselves as separate now, because of the Convention, find that their front gardens, as it were, have common borders. It is true that in the final analysis States have to agree bilaterally on the delimitation of these borders and it will remain solely within their sovereign competence to arrive at such agreements, but the area is too small not to have overlapping interests which can best be solved in a spirit of regional co-operation. Boundaries could be established. But will that, by itself, solve the difficulties that might arise in fishing, navigation, preservation of the marine environment, pollution and scientific research, and other uses of the seas?

94. We firmly believe that the best approach to all these problems is a regional one, and we look forward to working and co-operating with all Mediterranean States so that the Convention we are about to sign will become a catalytic instrument in transforming the Mediterranean Sea—environmentally one of the most endangered seas—into a healthier environment.

95. Fifteen long years ago the delegation of Malta introduced at the United Nations the concept that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as their resources, were the common heritage of mankind and that they should be so declared by the General Assembly. In 1970 the General Assembly adopted such a declaration, and preparations for the Third United Nations Conference on the Law of the Sea began. The result is the present Convention. With all its faults and merits, it is an instrument which seeks to balance myriads of interests; indeed, it is in that balance that its strength lies.

96. It was our hope, as well as that of many others, that the Convention would be adopted by consensus. Regrettably, that was not to be, and my delegation can only look with a heavy heart at the fact that the consensus was shattered solely because of different perspectives on how to deal in practice with the principle of the common heritage, a principle universally accepted as far back as 1970. But we are not to lose heart. For our part, we shall not only sign the Final Act and the Conven-

² *Ibid.*, 176th plenary meeting.

tion but shall also do our best to ratify the Convention without undue delay, thus contributing not only to the establishment of a new sea-bed régime and of the Authority which will administer it but, in a far wider aspect, to a new régime in ocean space.

97. In conclusion, I wish to pay a tribute to the late President Amerasinghe. That he led the Conference in a masterly fashion is known to one and all; but, for us of the delegation of Malta, he occupies a special place in our hearts, since we always found him very understanding of our own special concerns. The void left by his death was difficult to fill, but it was the destiny of this Conference to be led by men of highest competence. Your contribution, Sir, to the success of this Conference, both before and certainly much more upon becoming its President, is for all to attest. We wish to thank you for your leadership. We also wish to thank the Special Representative of the Secretary-General and his staff for their competence and unselfishness in servicing the Conference. Finally, I should like to thank you, Mr. President, and all those speakers who found it opportune to refer to Malta's pioneering role in 1967, which led after a long, and sometimes tortuous, road to the ceremony we shall be holding tomorrow and will, we earnestly hope, lead us to further and more tangible achievements.

98. Mr. KIM HYONG U (Democratic People's Republic of Korea):³ The delegation of the Democratic People's Republic of Korea wishes first of all to express its thanks to you, Sir, the President of the United Nations Conference on the Law of the Sea, and to the authorities of the Government of Jamaica, the venue of the Conference, for having rendered every service to the representatives participating in it. My delegation extends thanks to Mr. Edward Seaga, Prime Minister of Jamaica, for the wonderful speech he delivered congratulating the Conference. My delegation also takes this opportunity to offer cordial greetings of friendship to the Jamaican people:

99. The current session of the Conference, convened for the signing of the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, will make a significant contribution to the establishment of a new international economic order. This is because on this occasion the Conference is going to sign the United Nations Convention on the Law of the Sea which was adopted at the end of April, thanks to the sincere efforts made by the peace-loving countries of the world, including the third-world countries, for the establishment of a new international economic order befitting the demands of the present time.

100. The Democratic People's Republic of Korea, as a developing third-world country and a dignified member of the Movement of Non-Aligned Countries, has done its utmost in the past for the establishment of the law of the sea, and therefore our delegation has now come here to participate in the signing of the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, the outcome of difficult deliberations.

101. The United Nations Convention on the Law of the Sea that is to be signed at this time streamlines, as a reflection of the demand of the independent era, the concept of the new international law on the 200-mile exclusive economic zone and the concept of the new international law whereby the sea-bed areas beyond the limits of national jurisdiction and their resources belong to the common heritage of mankind. That clearly manifests the progressive nature of the Convention.

102. Of course, the Convention has shortcomings and limitations in some aspects. However, the overwhelming majority of

countries of the world voted in favour of its adoption because of what I have just termed its progressive nature.

103. The adoption of this Convention is one of the important successes attained by the third-world and other peace-loving countries of the world in their struggle for the establishment of a new international economic order.

104. Although the Convention has been adopted, aggression on the sea and all manner of threats against and plunder of marine resources by the imperialist Powers persist today. The delegation of the Democratic People's Republic of Korea strongly demands the unconditional termination of such an abnormal situation.

105. In spite of the adoption of the Convention, there are still attempts to monopolize the international sea-bed Area and its resources. The delegation of the Democratic People's Republic of Korea reaffirms its position of resolute opposition to any one-sided steps or agreements aimed at infringement of the international sea-bed Area and its resources, the common heritage of mankind, outside the framework of the United Nations Convention on the Law of the Sea.

106. The United Nations Convention on the Law of the Sea as a whole is a universal treaty acceptable to everyone. Unfortunately, the Convention does not fully define several problems, including that of innocent passage through the territorial sea. The delegation of the Democratic People's Republic of Korea reaffirms the right of coastal States to adopt measures to safeguard their security interests, including the right to require prior notification or consent in regard to passage of foreign warships through their territorial sea.

107. My delegation, having seriously considered the Convention, reserves its right to make a declaration or statement within the limits of the permission granted under the relevant articles.

108. The delegation of the Democratic People's Republic of Korea wishes to make it clear that, proceeding from its ideal of independence, friendship and peace, my Government will sign the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, which was adopted by the affirmative votes of the overwhelming majority of countries.

109. The delegation of the Democratic People's Republic of Korea hopes that all countries will actively and sincerely take part in the work of the Preparatory Commission for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea and that all the issues debated in the Commission will be settled in conformity with the desire and understanding of the people of the world. My delegation confirms its readiness to do everything to that end in the future.

110. Mr. WOLF (Austria): Ever since November 1967, when Mr. Arvid Pardo of Malta delivered his historic address⁴ to the United Nations, Austria has been following with keen interest the emergence of the new law of the sea, and our successive delegations have actively and loyally participated in the development of this work of momentous importance. Though a small land-locked country in the heart of Europe, Austria has nevertheless seen from the very first days the unique potential of this undertaking for global development. Our aim has been, and still is, the establishment of a new order for the oceans which should, in the first place, make an essential contribution to world peace; secondly, offer new ways to bridge the gap between rich and poor countries; and, thirdly, give all nations—I repeat: all nations—the possibility of participating in the exploration and exploitation of the wealth of the oceans, in scientific as well as in economic terms.

³Mr. Kim Hyong U spoke in Korean. The English version of his statement was supplied by the delegation.

⁴Official Records of the General Assembly, Twenty-second Session, First Committee, vol. I, 1516th meeting.

111. Austria has enthusiastically accepted the philosophy of the oceans as the common heritage of mankind, a philosophy which we always wanted to be as extensive as possible for the benefit of mankind as a whole.

112. Now, some 15 years later, the great work has been completed or, at least, a fundamentally important phase of this work has been concluded. As always and inevitably happens, the gap between our hopes and dreams and the reality as it finally emerges from our labours is considerable. This is of course particularly true with regard to the land-locked and geographically disadvantaged States.

113. In spite of this, however, Austria will sign the Final Act of the Third United Nations Conference on the Law of the Sea as well as the United Nations Convention on the Law of the Sea. We will do so with the expectation that the interpretation of the Convention and its bona fide application will allow land-locked countries also, in spite of their disadvantaged geographical position, to participate in marine activities such as the exploitation of ocean resources, shipping and navigation and marine scientific research, which is fundamentally important for the economic as well as the cultural life of even a land-locked country.

114. One of the most positive aspects of the Convention in the Austrian view is its comprehensive dispute-settlement system. We are confident that an instrument of international law providing for such a system will contribute to a reduction of conflicts and a lowering of tensions. In this sense the Convention may make an essential contribution to world peace.

115. World peace must be founded on economic justice and the closing, or at least the reduction, of the gap between North and South. And although the Convention in some ways—especially in Parts I through X—increases inequality among States and therefore tends to serve the interests of the richer nations, other parts of the Convention are clearly designed with the needs of the poorer nations in mind. But there is a danger. If not applied in the foreseeable future, Part XI of the Convention will run the risk of being overtaken by scientific and technological changes. Still, Part XI does provide a unique opportunity for the creation of new forms of scientific-industrial co-operation between North and South. The Preparatory Commission will have the challenging task of utilizing the text of the Convention in such a way as to reduce the growing gap between the ideas and ideals, and also the phobias, of the seventies and the economic and technological realities of the eighties and nineties. If the Commission is successful in this task it will assure the universal acceptance of the Convention, even by those who today do not see it to be in their interest to sign. At the same time it will be a first building block or, more than that, a cornerstone of a truly new international economic order based on the principle of the common heritage of mankind.

116. Austria upholds the view that co-operation between nations and a new international economic order can be maintained and enhanced only if no country interprets the Convention as an authorization for further unilateral claims and gains on the basis of an already geographically advantaged position and to the detriment of other States, especially the land-locked and geographically disadvantaged States among them. Austria cannot imagine a separation of rights and duties within the framework of the Convention.

117. Our task is not completed by our signing of the Convention. Only with a Convention in force, with universal application, shall we have reached our common goal.

118. Much will depend on the work of the Preparatory Commission, the only instrument that remains, and on its faithfulness to the principles of consensus and comprehensiveness of approach. The Preparatory Commission is not a reincarnation of the Special Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of

National Jurisdiction. The recognition that all problems of the oceans are closely interrelated and must be considered as a whole—which, as Mr. Koh reminded us in his statement, was the second great contribution of Ambassador Pardo to this Conference—must not be lost sight of by the Preparatory Commission, whose activities must be harmonized with those of the other United Nations institutions engaged in marine activities and the protection of the marine environment, which in turn will also have to be further developed and strengthened. We have barely begun to pay attention to these problems. A great task has been completed. Clearly another great task lies ahead of us.

119. In this awareness, Austria pledges its support for the continuation of our work. Austria fully intends to contribute its modest share until we have fulfilled our common great task—the establishment of a new order in the oceans based on the universal application of the United Nations Convention on the Law of the Sea.

120. In conclusion, I should like to associate myself with all the previous speakers who have expressed our common gratitude and deep appreciation to you, Mr. President, to all the other officers of the Conference and to the Special Representative of the Secretary-General and his staff, and to the Government and people of Jamaica for their splendid hospitality.

121. Mr. OTUNNU (Uganda): I cannot help feeling the powerful sense of history and the exciting atmosphere of celebration that so freely permeates this hall today. We are on the eve of a momentous and historic development. Tomorrow we shall gather in this very hall to sign the Final Act of the Third United Nations Conference on the Law of the Sea and open for signature the United Nations Convention on the Law of the Sea.

122. Why should the advent of the Montego Bay Convention, negotiations for which spanned a period of nine years and 11 sessions, evoke in us such an aura of history and celebration? There are many reasons, but I should like to stress four in particular.

123. First, the Montego Bay Convention is the most important symbol to date of a new era, a democratic era, in the development of international law. This Convention is the outcome of negotiations in which all States—great and small, old and new, so-called developed and so-called developing—have participated and made contributions. This process stands in sharp contrast to the practice of the previous era, in which a few powerful States determined the content and the course of international law, based largely on their own interests, and imposed that parochial order on the rest of the world. It is our hope that the new era, marked by rational discussion and democratic practice, will inspire other positive developments in the field of international law.

124. The second significance of the Montego Bay Convention lies in the fact that, in place of unilateral, unco-ordinated and often conflicting measures, we now have a universal legal régime to govern all activities in the oceans and seas of the world and in the sea-bed and its subsoil. We must all resist any attempts to undermine the universal character and spirit of the new régime. In this context we must reject moves to establish a parallel régime or a mini-treaty.

125. The third significance of the Montego Bay Convention is to be found in the principle that the area of the sea-bed and its subsoil beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, to be explored and exploited for the common benefit of mankind as a whole. The recognition of this principle constitutes a proud landmark in our civilization. In our view the principle of the common heritage of mankind should be promoted and developed for the common good in other fields of international endeavour.

126. Fourthly, the Montego Bay Convention provides the most visible and concrete example of what the United Nations in particular and the international community in general can achieve through the process of careful and patient negotiations. The Secretary-General, Mr. Pérez de Cuéllar, expressed this point so well in the eighth part of his celebrated report of 7 September 1982 when he stated:

“We have seen, in the case of the law of the sea . . . what remarkable results can be achieved in well-organized negotiations within the United Nations framework, even on the most complex of issues.”⁵

127. If we could bring forth this monument of a document, why can we not deploy the same will, determination and experience to tackle the other pressing and outstanding issues on the agenda of international co-operation and development?

128. In spite of its historic significance, to the various aspects of which I have just referred, the Convention is not without some serious flaws. It could not be otherwise, since the Convention was of necessity born of the give-and-take of compromises and concessions—perhaps too many compromises and concessions. It is clear to my delegation that those who have ended up with the short end of the stick in the process of negotiations are mainly developing countries, especially the land-locked and geographically disadvantaged developing countries. In this regard I must state clearly here that Uganda is not satisfied with the provisions of the Convention relating to the interests of land-locked countries and land-based producers of minerals. We hope that there may yet develop a better appreciation of the difficulties facing the land-locked countries.

129. In spite of the misgivings to which I have just referred, Uganda voted in favour of the draft Convention on 30 April 1982. We did so in a spirit of compromise and co-operation and because of our commitment to the rule of law. Similarly, Uganda will tomorrow, in the same spirit, sign the Final Act and the Convention.

130. Is it not ironic that it is precisely some of the countries that obtained the most concessions during the negotiations that are now hesitating to sign the Convention? We hope that after due reflection those countries will join the vast majority of the international community in signing and ratifying the Convention.

131. The Third United Nations Conference on the Law of the Sea has, throughout its long duration, been blessed with an especially inspired leadership. This deserves special tribute. A very special tribute must be given to your illustrious predecessor, Sir, the late Hamilton Shirley Amerasinghe of Sri Lanka, whose determination, wisdom and good humour placed the Conference on a sound course. Mr. Amerasinghe's contribution left an indelible mark on the Conference and its final outcome.

132. To you, Mr. President, we owe a great debt of gratitude. You have led the Conference with rare brilliance, courage, tenacity and charm.

133. Mr. Arvid Pardo of Malta, whose vision opened the way for the recognition of the principle of the common heritage of mankind, will forever have a very special place in our hearts and an equally special place in the history of the law of the sea. I am delighted that Mr. Pardo could join us here today.

134. To the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and the hard-working and efficient men and women of the secretariat, we express deep appreciation and respect.

135. Finally, we wish to express our gratitude to the Government and people of Jamaica for their wonderful hospitality and, if I may say so, for their agreeable climate. Jamaica's contribution to the world is well known, but I must make mention in particular of Jamaica's contribution to the Movement of Non-Aligned Countries, to the Group of 77 and to the musical culture of the world. It is most appropriate, therefore, that this historic occasion should take place in this beautiful land of beautiful people.

136. Mr. MALLET (Saint Lucia): Mr. President, I should like at the outset to express my Government's congratulations on your assumption of the arduous task of steering this Conference to a successful conclusion. In the same spirit, I wish to join the many others who have preceded me in paying a tribute to the late Hamilton Shirley Amerasinghe for his yeoman service and to the many others who have been associated with this Conference over nearly a decade.

137. I am particularly pleased that this historic event is taking place on the sister island of Jamaica, which shares with my own island, Saint Lucia, the strongest of bonds and the deepest of relations. We are confident that the decision taken by the Conference to make Jamaica the site of the Sea-Bed Authority will prove to have been a wise one.

138. I am empowered by my Government to sign the Final Act and the Convention. We shall sign not because we find all parts of the Convention entirely acceptable, since it is not expected that all the provisions of an international agreement of this scope will be entirely acceptable to all participating countries, but because we believe that, in the spirit of compromise, it is the best that could be achieved at this time. And, just as international law has at times been looked at in a progressive manner, we are hopeful that the dynamic nature of this Convention will prevail over any static interpretation that may be placed upon it.

139. For example, my Government is of the opinion that the vagueness in section 3 of Part II of the Convention, with respect to innocent passage in the territorial sea, results from the compromise that was necessary. It can be interpreted to mean that passage in the territorial sea by foreign warships is deemed not innocent unless proven to be so. Of course, the converse also holds. It all depends on who is interpreting. My Government regrets the ambiguity inherent in those articles and will from time to time express its concern.

140. Having said that, we must acknowledge a very basic principle which the Convention seeks to establish, that is, the common heritage of mankind in respect of the sharing of the resources of the sea-bed and the subsoil thereof. This principle far outweighs in benefits the difficulties of my Government in respect of specific items of the Convention to which I have alluded.

141. We are also pleased that specific responsibility is placed on all States for the preservation of marine resources, both living and non-living. It helps to ensure that at least adequate resources will be available in respect of fisheries and other useful marine organisms on a global level for the continued survival of mankind.

142. The history of man's relationship with the sea cannot be denied, and in some quarters it is even believed that life originated from the sea. Whether or not that is true, we have an obligation to preserve the seas and oceans and, whether or not we believe it, they are important not just for one's well-being but for our very survival on this planet.

143. Lastly, that so many States worked so assiduously and for so long deserves the just reward of a Convention which puts some order and predictability in States' relations in respect of activities in the greater portion of the planet—a Convention that will hold a special place in the history of international law. It cannot be perfect because it was based on compromise. It cannot satisfy everyone's desires since it had

⁵ *Ibid.*, Thirty-seventh Session, Supplement No. 1 (A/37/1).

to take all points of view into consideration. What it can do and, I submit, has already done is to provide and concretize some general principles of law which will serve as a basis for relations between States in respect of the sea. My country is committed to the rule of law in international affairs.

144. The rule of law is a strong weapon on the side of small States like my own. This Convention, whatever may be its deficiencies, provides the corpus or framework of law.

145. We have therefore agreed to sign it, hoping that States that are stronger than we are, and have more resources, may in time find it possible to come under this umbrella and thus make it a truly universal Convention excluding no one country and therefore an instrument for peace, understanding and goodwill amongst all countries of the world.

146. Sir, in keeping with your request that we be as brief as possible, I shall now conclude by expressing our thanks to the Chairmen of the Committees, the Bureau, the secretariat and the representatives who have worked so diligently and tirelessly over so many years.

147. Finally, to the Government and the people of Jamaica, I wish to express my gratitude and appreciation for their having acted as hosts to this Conference and for the warm hospitality for which Jamaica is so well known.

148. Mr. ROBLEH (Somalia): First of all, my delegation wishes to join other delegations in thanking the Government and the people of Jamaica for serving as hosts to this historic gathering of the Third United Nations Conference on the Law of the Sea. Since we have set foot on Jamaican soil, we have been overwhelmed by the unbounded hospitality and friendship of the Jamaican people. We feel truly at home.

149. Secondly, my delegation wishes to associate itself with the tributes that have been paid to the late President of the Conference, Ambassador Hamilton Shirley Amerasinghe, for his monumental contribution to the work of the Conference.

150. Mr. President, you have been a worthy successor to the late Mr. Amerasinghe, and my delegation highly appreciates your skill, finesse and herculean efforts in steering these Byzantine negotiations to a successful finale.

151. The marathon multilateral negotiations on the many and complex issues on the law of the sea are about to be wound up in this beautiful Jamaican city of Montego Bay on Friday. Already signs of relief tinged with a sense of pride can be seen on the faces of all participants. The document that has resulted from many years of diplomatic haggling and political infighting does not reflect the original positions of developing countries. Indeed, one recurring feature of the negotiating process within the Third United Nations Conference on the Law of the Sea has been the unending stream of concessions made by developing countries in relation to many important provisions of the Convention. Those concessions were made by that group of States in their desire to ensure the successful conclusion of the Third United Nations Conference on the Law of the Sea.

152. The new Convention is undoubtedly a significant contribution to the progressive development of international law and constitutes a conspicuous milestone in the universal quest for the fashioning of an equitable new international economic order. Indeed, if faithfully applied, the new Convention will usher in an era of peace, justice and tranquillity in the seas and ocean space in place of might, chaos and confrontation.

153. For the aforementioned reasons the Somali Democratic Republic will sign both the Final Act and the Convention tomorrow.

154. However, my Government has instructed us to spell out Somalia's serious misgivings about certain provisions of the Convention and to set out our understanding of certain key provisions of the Convention.

155. The Somali Democratic Republic has had on its statute books since 1972 Law No. 37, which decreed a territorial sea of 200 nautical miles. In our view, Somalia has acquired rights under that law, in accordance with customary international law, and these rights are not subject to question by any other States. However, in fulfilling the obligations we have assumed under the various provisions of the Convention, Somalia will endeavour to the greatest possible extent to harmonize the 1972 law on the territorial sea with our obligations under the Convention.

156. Furthermore, my Government wishes to put on record our understanding that article 21 of the Convention must be read in the context of the interpretative statement made by the President at the 176th plenary meeting, on 26 April 1982,¹ to the effect that:

“Although the co-sponsors of the amendment contained in document A/CONF. 62/L.117 had proposed the amendment with a view to clarifying the text of the Convention, in response to the President's appeal they have agreed not to press it to a vote . . . They would, however, like to reaffirm that this is without prejudice to the right of coastal States to adopt measures to safeguard their security interests in accordance with articles 19 and 25 of the draft Convention.”

157. My Government has over the years lent its unswerving support to the novel concept of the exclusive economic zone now enshrined in Part V of the new Convention. The exclusive economic zone is a *sui generis* zone which is neither a portion of the territorial sea nor an integral part of the high seas. My Government is adamantly opposed to efforts by certain States to internationalize this *sui generis* zone by distorting certain provisions of the Convention.

158. In our view, paragraph 2 of article 63 imposes an obligation on the States concerned to seek to agree on measures necessary for the conservation of stocks found within the exclusive economic zone and in areas adjacent to it.

159. With regard to the important question, contained in articles 74 and 83, of delimitation of maritime boundaries, Somalia's understanding of these key provisions is that the goal or objective in all adjudications relating to delimitation shall be to secure an equitable solution. It follows that equity can never be achieved in such situations without having due regard to all relevant circumstances.

160. The Somali Government is of the view that one serious lacuna in this important Convention is the failure to incorporate a clear-cut provision on the right of national liberation movements such as the Palestine Liberation Organization to become full-fledged parties to the Convention. Further, our signing of the Final Act and the Convention in no way signifies implicit recognition of States or entities which Somalia does not recognize.

161. With regard to article 287, pertaining to the choice of a procedure for the settlement of disputes concerning the interpretation or application of this Convention, my Government will spell out its choice in a written declaration at an appropriate time in the future. Equally, we shall indicate our position on article 298 in the future.

162. This historic Conference would never have been convened had it not been for the imagination and inspiration of Mr. Arvid Pardo of Malta, who gave us the concept of the common heritage of mankind in relation to the area beyond national jurisdiction. Hence it is fitting to register our great debt to this great man.

163. The legal status of the area beyond national jurisdiction is abundantly set out in the various provisions contained in Part XI. Under those provisions no State can claim or exercise sovereignty over any part of the Area nor appropriate any part thereof. In view of this my Government regards any unilateral attempt to exploit the Area as entirely illegal.

164. For the concept of the common heritage of mankind to become a reality it is imperative that the International Sea-Bed Authority we envisage under Part XI of the Convention must be endowed with all the necessary powers to enable it effectively to discharge its duties.

165. The new Convention we are about to sign will stand out in history as a shining example of the collective will of mankind to reconcile widely divergent interests through negotiations rather than through the sword.

166. My delegation cannot conclude this statement without expressing our debt and gratitude to the United Nations Conference secretariat, led by the Special Representative of the Secretary-General. Without the unstinting service of these dedicated individuals the Conference would never have progressed thus far. Our gratitude also goes to the Rapporteur-General of the Conference, the Ambassador of Jamaica; the Executive Secretary; and the chairmen of the various committees of the Conference, who gave so much of their energy and time to ensure the successful conclusion of our collective effort.

167. Mr. KEMISHANGA (Zaire) (*interpretation from French*): Mr. President, I should like, before I start my substantive statement, to express here my delegation's gratitude to that outstanding diplomat and expert in questions relating to the law of the sea, your predecessor, the late Mr. Hamilton Shirley Amerasinghe, for the noteworthy services he rendered to the Conference while exercising his heavy and delicate responsibilities as its President.

168. At the same time, I should like to address to you, Mr. President, a well-deserved tribute for the tremendous efforts you have made throughout the Conference in guiding the difficult negotiations. My delegation has been very conscious of your wisdom, intelligence and common sense, and you have aroused our admiration. The results of our work are due in large part to your exceptional qualities as a diplomat. I must mention too all the other members of the Collegium, to whom, through you, I should like to convey my delegation's gratitude for the constant, tireless efforts they have made throughout our negotiations with a view to achieving a generally acceptable agreement.

169. My delegation is also grateful to the Conference secretariat for the services it has rendered us under the watchful eye of its head, Mr. Zuleta, the Special Representative of the Secretary-General. I request these worthy co-workers to accept my delegation's gratitude.

170. In meeting between 6 and 10 December 1982 in Montego Bay, a splendid little city in Jamaica, to mark the culmination of a long process, the worthy participants in the Third United Nations Conference on the Law of the Sea have responded to the call of history and to the appeal made to them by the international community through its relevant resolutions, including General Assembly resolution 3067 (XXVIII) of 16 November 1973, whereby the Conference was given the task of adopting a convention dealing with all matters relating to the law of the sea which the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction had formally approved. In this context the Conference was asked to bear in mind that the problems of ocean space were closely inter-related and therefore had to be considered as a whole. This message reflected the international community's intention to make the future instrument on the law of the sea an indivisible whole, the acceptability or unacceptability of which could not be the subject of any partial agreement and, still less, of a policy of half measures. That is why my delegation is not prepared to accept the view that the Convention on the Law of the Sea is merely a general guideline for the purpose, at most, of helping countries to harmonize their national policies and legislation. That view, my delegation feels, is an

extremely dangerous interpretation that could uselessly call into question the achievements of the Conference and deal a blow to the efforts and sacrifices of the international community. To sum up, we must regard the Convention as a fact and must accept it or reject it. And if it is accepted, it must be accepted as a whole. The importance of that position of ours is related to the scope of the questions covered by the new legal régime which is to govern activities carried out in the seas and oceans beyond the limits of national jurisdiction and their respective national and international consequences.

171. By its universal scope and the aim, complexity and breadth of the questions with which it deals, as well as the general machinery it establishes, the United Nations Convention on the Law of the Sea is a monument in the very wide range of United Nations achievements, second only to the Charter in its importance. In addition to contributing to the work of the codification and progressive development of international law and the implementation of the New International Economic Order, as well as the recasting in its original context of what many believed to be Utopian—namely, the principle of the sovereign equality of States—the United Nations Convention on the Law of the Sea appears to be one of the most appropriate instruments that has ever been before the United Nations for the methodical attainment of the objectives of the Charter and the promotion of international peace and security. Although it did not obtain the general consensus so ardently sought, the results arrived at by the Conference cover a very broad area of agreement and reflect, although imperfectly, the deep aspirations of almost all the nations in the world, large and small alike, whose concerns are, to be sure, divergent but legitimate.

172. Among other issues the Convention deals with, I would mention freedom of navigation in the interest of all, utilization and preservation of the resources of the seas, protection of the maritime environment, marine scientific research and, finally, the machinery for the peaceful settlement of disputes. New concepts in international law have been introduced, in particular the concept of the common heritage of mankind, which constitutes the cornerstone for the interpretation of the relevant provisions of the Convention.

173. Having said that, I should like to bring out, as have many preceding speakers, the fact that the United Nations Convention on the Law of the Sea is far from what we can consider to be an ideal model. The delegation of Zaire is one of those which have participated actively in the Conference—from Caracas to Montego Bay, and in the intermediary stages in New York and Geneva. As a result, it is perfectly aware of the shortcomings and imperfections in the text of this Convention, with respect both to the organization of the ideas in the Convention and to its impact on the real situation of every country. On many important questions such as access of all States of the region to the resources of the exclusive economic zone, the system for the exploitation of the mineral resources of the Area dealt with in Part XI, the mechanism for compensation for losses suffered by the land-based producers of minerals to be extracted in this Area, there was no compromise acceptable to all, in particular to my country, Zaire, whose main source of revenue is the exporting of these minerals, especially cobalt, of which Zaire is the world's chief producer and exporter. The whole formula for limitation of production is completely based on nickel, despite the broad and varied range of proposals presented by my delegation, jointly with other delegations concerned, and that can only result in the eviction of the land-based producers of this metal from the market. This eviction, which is more than probable, is the result of the gap between article 151, concerning the limitation of production, and the principle of equity reflected in article 15 (h), which states that:

“Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster

healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the overall development of all countries, especially developing States, and with a view to ensuring:

“... .

“(h) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral”.

174. That is, basically—without going into the excessively dilatory compensation mechanism—one of the flagrant weaknesses of the Convention.

175. Nevertheless the Republic of Zaire, faithful to its policy of peaceful coexistence with all States—large or small and with various economic, social and political systems—and in a spirit of active solidarity, has bowed to the will of the overwhelming majority of States, thus rejecting isolation and contempt for a changing world. That is why on 30 April last Zaire voted in favour of the adoption of the United Nations Convention on the Law of the Sea and, through me, today states that it will sign the Final Act tomorrow and the Convention as soon as possible.

176. When it signs the Convention, my Government will make clear its position on some provisions that cause it difficulties. We venture to express the hope that in its wisdom the International Sea-Bed Authority will take this situation into account and close the gaps in the text.

177. Thus the delegation of Zaire repeats its appeal to those States which are still having difficulties with one or another part of the Convention to serve the cause of international solidarity, by joining the majority, following the example of many other States which, like Zaire, have felt it to be a duty to give a positive response to the voice of reason despite their difficulties. For we believe that the signing of the Convention is not an end in itself; rather, it opens the way to new forms of negotiation, through which Zaire plans to defend its vital interests in the future.

178. I cannot conclude my statement without warmly thanking the brotherly people and Government of Jamaica for their warm welcome.

179. Mr. DEROBURT (Nauru): My delegation and I have come to Montego Bay, Jamaica, from distant Nauru, our island home in the Central Pacific, to witness, along with other countries great and small here assembled, a very great event for the world and to participate with them—the developing and the developed countries, the land-locked countries and the coastal States—in the signing of the United Nations Convention on the Law of the Sea, an achievement for which we are indebted to many.

180. I feel very privileged and honoured to have been given the time to address this assembly and, with other representatives, to sign the Convention and the Final Act tomorrow. I shall do so with great pleasure on behalf of my country.

181. I believe that we have been well and very adequately reminded of the historic and unique importance of the event that is unfolding before our eyes, and I seek the Conference's indulgence if, despite my intentions to the contrary, I happen to traverse ground similar to that which other participants have covered more eloquently and more competently.

182. The significance of a world body's adoption of the best régime it can devise to regulate the exploitation of a newly discovered source of wealth in the seas and oceans around us and on the sea-bed, in order that such exploitation be orderly, equitable and fair, is very real to my country, Nauru. In my country the past exploitation of newly found wealth was neither so orderly nor so equitable and fair, and today, although continued exploitation of that wealth has, in my view, become orderly, fair and equitable, the country is steadily losing its

physical substance because of the mining and exporting of its soil to overseas markets for necessary economic reasons.

183. Even though this is being done for the nation's economic survival, it is, we think, ironic that when there is no more phosphate—which is the very soil of Nauru—to export, and this will occur a decade from now, according to official estimates, we will then be confronted with the need to find—although we should have already done so by that time—new sources of revenue. Officially, we regard ourselves as already so confronted. We have reached the conclusion that, as a small nation and a small island, we should look more and more to the sea and what it has to offer for our means of livelihood and survival as a viable nation, however small.

184. That is why we will always be grateful to the United Nations for having made it possible, through such a body as this, for us to legislate for a tract of the sea around our island that will be internationally recognized to a defined extent and to claim as our own and to exploit and fish that area for the economic well-being of our people. That opportunity has in turn given rise to aspirations on our part to embark upon the creation of a fishing industry, to fish that zone we have delineated by law—as we think other, neighbouring countries have done or are doing.

185. Although the fishing industry to which I refer has not so far done well, owing to lack of managerial expertise, there is no doubt in our minds that it is a step in the right direction, and we expect eventually to make it a success. However, the important point is that the United Nations has given us good grounds for hope and to aspire to help ourselves, making use of the means that are available or being made available to us. Thus, we highly appreciate and welcome the efforts of the international community that have culminated in what is happening here in Jamaica.

186. Although Nauru is not a Member of the United Nations, principally because it cannot on its own afford the cost of such membership, we are very much a part—however small—of the world in which we all live and of which we pray we all share the responsible ownership, albeit in varying degrees of magnitude.

187. We salute and congratulate the United Nations for a monumental achievement here, and we are proud to be associated with all of you in it in some small way, as well as in the common endeavours to improve the quality of our lives and of the lives of our people and to enhance the means of existence for humanity in our world. We thank you all for having given us—and small island communities like us—hope, hope for a brighter and more promising future for our children, their children and their children's children unto the end of time.

188. We fully support the efforts of the Conference in arriving at a new régime which will, we believe, launch a new world order that will govern how the wealth of the sea and the sea-bed may be equitably rationed and how it should be exploited in the interests and for the well-being of mankind. Along with others, I trust that, once signed, the Convention will be binding on all of us permanently, or until such a time as man's ingenuity and fortitude, under God's guidance, may again find for us a new and better order.

189. Before leaving this rostrum, I should like to join colleagues in thanking, on behalf of my delegation and on my own behalf, the Government and the friendly people of Jamaica for the warmth of their hospitality and the many courtesies they have extended to us from the moment of our arrival in this, their delightful country. I thank Jamaica.

190. I should like to thank you too, Mr. President, and all those other, unseen, persons who must have worked very hard to bring this Conference to this successful conclusion.

191. Mr. YACOUBA (Niger) (*interpretation from French*): As we are nearing the end of the long and arduous Third

United Nations Conference on the Law of the Sea, whose last session is now being held here, it is my privilege to address this distinguished gathering to express some of our thoughts at this historic moment.

192. My country has taken part in all the stages of the negotiations which led to the birth of the Convention now before us today in its final form because we believed it capable of introducing a new era in inter-State relations. Indeed, we were of the opinion that the proliferation of specific rules and unilateral decisions governing the maritime activities of coastal States was provoking all kinds of disputes threatening international peace and, hence, that order had to be introduced in that area.

193. We have just attained that objective, with the advent of the United Nations Convention on the Law of the Sea, and my delegation can only be justly proud to have made its modest contribution.

194. Niger, a land-locked country which is one of the least developed countries of the world, places much hope in the possibilities opened to it by our Convention to be in a better position to deal with the constraints of its geographically disadvantaged location and pursue its development in a more propitious climate.

195. In this connection we wish to mention in particular two principles of the Convention which, for a country like mine, are undoubtedly gains. The right of access to the sea by land-locked countries, on the one hand, and the embodiment of the principle that the resources of the sea-bed beyond the limits of national jurisdiction belong to mankind as a whole, on the other, are no doubt decisive steps towards the establishment of a more just new international order where the rights of the "have-nots" will be recognized and, we hope, respected.

196. That is why I should like to join preceding speakers in urging those States which do not appear to wish to join us today to review their position and come to this rendezvous with history.

197. In proclaiming my country's decision to sign the Final Act and the Convention at this time, I am firmly convinced that this is the most handsome gesture we can offer mankind as this year comes to a close.

198. In conclusion, I should like to pay a tribute to you, Mr. President, the late Ambassador Amerasinghe, the members of the United Nations Secretariat and all the others who in one way or another contributed to the success of our Conference, and to express my delegation's gratitude.

199. I would ask the people and the Government of Jamaica to accept our sincere thanks for their warm welcome and the special attention they have bestowed on us since our arrival here in this beautiful country, this island in the sun.

200. Mr. TULL (Barbados): It is with great pleasure that I express the satisfaction of the Government of Barbados that the work of this Conference is culminating in the sister Caribbean island of Jamaica.

201. Since the days of Caracas, my delegation has been eagerly looking forward to the signing of the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

202. The Government of Barbados has always attached great significance to the Third United Nations Conference on the Law of the Sea. My Government recognized that the objectives of the Conference sought to establish a framework which would ensure the peaceful uses and the orderly development of the ocean.

203. The Conference has been in session for some eight years. At times there have been grave doubts as to whether this event would become a reality. But that was to be expected, since the Convention sought not only to codify the classical and conventional laws of the sea but also to provide

for a system of exploration and exploitation of the deep seabed to give meaning to the declaration that the deep sea-bed was the common heritage of mankind. Moreover, there was the prerequisite that all agreements should be by consensus.

204. After the procedural difficulties were overcome, during the first substantive session, negotiations and discussions proceeded quite smoothly until the seventh session, in Geneva in 1978. It was there that certain subjects were identified and categorized as hard-core subjects. Negotiations and discussions on these issues were intensive in an effort to reach consensus. That consensus was reached in no small measure due to the will of representatives to reach acceptable solutions.

205. The Government of Barbados recognizes that a small country like Barbados cannot hope successfully to promote and protect its interests in the absence of a universally accepted convention in which the jurisdictions and sovereignty of countries large and small are recognized in relation to territorial waters, resources and the right to protect and preserve the marine environment; nor can Barbados, in the absence of an international treaty, hope to share in the benefits which will be derived from the exploitation of the area of the deep sea-bed and ocean floor, which is deemed to be the common heritage of mankind.

206. Barbados welcomes the provisions of the Convention regulating the exploitation and management of fisheries resources. A source of great satisfaction to us are the provisions on maritime pollution and maritime scientific research. The Caribbean is a major sea lane where super-tankers ply their trade. This poses a constant threat to marine life and environment. The beaches of the Caribbean are important resources in the economic life of these islands, since tourism is a vital industry.

207. From the inception of the Conference, the Government of Barbados has lent its support to the provisions establishing a 12-mile territorial sea and a 200-mile exclusive economic zone, and we are happy to see that they have been incorporated in the Convention.

208. Barbados supported the provisions on compulsory settlement of disputes of a binding nature. Although we are not completely happy with the provisions of a less binding nature in some cases, we accept them in the spirit of compromise that characterized the negotiations.

209. A matter of great interest to Barbados was a provision requiring foreign warships to seek permission from the coastal State to pass through its territorial waters. That this was not approved by the Conference is a matter of concern to us, especially as our domestic legislation contains a similar provision.

210. Barbados had envisaged that this event would have been possible long before today. The adoption of the Convention at the eleventh session was a source of satisfaction to my Government, but there was also a corresponding source of regret in that only two of the major industrialized countries voted in favour of its adoption.

211. My delegation feels constrained to mention the stated intention of certain countries not to sign the Convention. Some of those countries are pioneers in the field of deep-sea-mining technology. It is the view of my delegation that the participation of the industrialized countries would facilitate the implementation of the provisions relating to deep sea-bed mining. We hope that by the time the Convention enters into force they will see fit to participate.

212. The rule of law must be applicable to international law no less than to municipal law. This implies clear and defined jurisdictions, certainty and equal and universal application. For States to opt out of the Convention and to pursue bilateral arrangements is to affect the integrity of the new régime,

and this could mean a threat to international order, peace and security.

213. The eighteenth century failed to establish clear and defined land boundaries and jurisdictions, and the result is troublesome boundary disputes in many areas of the world today. We shall have learned nothing from that experience and, indeed, we shall be failing succeeding generations, if we do not ensure that what happened with regard to land does not happen with regard to the sea.

214. The Convention is a superb achievement for international co-operation, and its importance lies in the fact not only that it has introduced a new comprehensive régime for the orderly management of the oceans but that it will serve also as a useful precedent for future international negotiations.

215. Finally, I join preceding speakers who have paid a tribute to those who have made outstanding contributions to the success of this Conference. We stand on the threshold of a new era. It is our wish that after the signature of the Final Act there will be the greatest participation by States to usher in this new era of ocean regulation. Barbados will sign tomorrow both the Final Act and the Convention.

216. Mr. KOROMA (Sierra Leone): First of all, I bring greetings from my Government to the Government and people of Jamaica and congratulate them on the excellent arrangements they have made for the signing ceremony in regard to the United Nations Convention on the Law of the Sea.

217. At the commencement of the negotiations on the law of the sea back in 1974, Sierra Leone, with its 200-mile territorial sea limit, declared that it would nevertheless be prepared to review its position should an acceptable compromise be reached. True to our word, when the charter for the world's oceans was adopted on 30 April this year Sierra Leone was found in the ranks of the majority which had made painful concessions in order to achieve a universal convention through consensus. Indeed, Sierra Leone, like many other African States, made those painful concessions in the interests of achieving peace and harmony in the oceans. We even sacrificed the common heritage principle and the equitable distribution of resources—all in the name of consensus.

218. In reality, the United Nations Convention on the Law of the Sea represents another Treaty of Tordesillas or even another Berlin treaty for African States. In real terms, the African States have benefited very little from this Convention. I say in real terms, not in esoteric terms. I should like to furnish a few statistics to prove the point.

219. First of all, a careful perusal of the Convention will disclose that two fifths of the oceans has been partitioned among the countries with the longest coastlines as exclusive economic zones for their industrial use. Now 85 per cent of the maritime oil and gas reserves and fishing grounds are found in those economic zones, and hardly any African State is included among the first 15 of the States which stand to benefit from the present Convention. Thus, by such partitioning, one of the fundamental objectives of the Convention has been sacrificed—namely, that the resources of the oceans belong to mankind as a whole. Other fundamental objectives that have been sacrificed relate to rights guaranteed to the maritime Powers, such as free passage, free navigation, overflight, the passage of commercial and military vessels and aircraft in and over all seas and so forth.

220. Thus, the Convention does not provide for the equitable distribution of resources that would have been beneficial to the developing countries, African countries among them. In return for the considerable quantum of rights granted the maritime countries, they have not gained much in real terms.

221. I turn now to the international sea-bed Area, where sea-bed mining of polymetallic nodules is to take place. The Convention provides for a parallel system of exploration and

exploitation by private consortia and the Enterprise, the commercial arm of the International Sea-Bed Authority. The benefit of that compromise outcome may again prove illusory to African States. In the first place, the Group of 77 of which the African States are a component part had agreed to a unilateral system of exploitation of mineral nodules, but that was resisted and rejected by the industrialized countries, which offered instead a parallel system of development of the nodules in exchange for financing the Enterprise to commence production, the transfer of technology to the Enterprise and a review conference after 20 years.

222. What finally emerged from the package and is written into the Convention is that the financing of the first mine site for the Enterprise—now estimated to cost between \$800 million and \$1.2 billion—will have to be funded by contributions from all States parties and by borrowing. Under this scheme the poorest African States will be expected to pay approximately \$1 million each to become members of the International Sea-Bed Authority, with no guarantee that such investment will yield dividends. In terms of our gross national product, that is not an inconsiderable membership fee. On the other hand, when production starts, several African mineral-producing countries which now produce the same commodities as would be produced from sea-bed mining will find themselves competing with sea-bed mines and may even go out of business, with all the consequences that that may involve, while at the same time the industrialized countries will become self-sufficient even in raw materials and mineral resources.

223. The major innovation of the last session was a scheme to protect preparatory investments in the sea-bed Area. That feature had been requested by the industrialized countries, which wanted to ensure that the consortia that invested money and technology in sea-bed prospecting would be sure of being able to mine the sites when sea-bed mining became commercially feasible. What emerged as resolution 11 in one of the annexes to the Final Act was a scheme to permit up to eight potential mine sites to be explored, evaluated and exploited by States and international consortia. Although no commercial production can take place until the Convention comes into force, it assures the pioneers authorization to mine their sites when the Convention comes into force. Thus the Authority is reduced to a licensing organ and, given the production ceiling, the parallel system will be put on hold. Whereas private consortia would be allowed to mine sites, the Enterprise, which is representative of all nations, would be authorized to mine only two. No African country will be in a position to become a pioneer investor by the cut-off date of 1 January 1985 and thus be able to benefit from this scheme.

224. My effort so far has been to demonstrate that if any group of nations should entertain serious reservations about this Convention, it is the African nations. While it is true that the Convention incorporates what could be considered to be elements of the New International Economic Order, it is untenable that the Convention itself represents the establishment of the New International Economic Order through the back door. It is undeniable that the Convention itself constitutes a milestone—an important one at that—in treaty-making and that it could bring peace to the oceans and could even make the United Nations itself truly universal and not just terrestrial. The esoteric value of the Convention, even for African States, cannot be seriously challenged. It is mainly for those reasons, and because all African States have for the first time taken an active part in the drawing up of an international régime for the oceans, that the Convention should be signed by African States. I have been mandated by my Government to explain to this Conference that, for the reasons which I have just explained, Sierra Leone, notwithstanding the imperfections of the Convention, will sign both the Final Act and the Convention itself.

225. I hope that at an appropriate stage the Sierra Leone delegation will be able to submit a more lengthy statement on its views on the Convention.

226. Mr. NAKAYAMA (Trust Territory of the Pacific Islands): When the General Assembly in December 1974 extended an invitation to the Trust Territory of the Pacific Islands to be a separate observer delegation, it was done on the grounds that the Trust Territory's interests in the law of the sea were in some respects different from those of its Administering Authority. Since 1974 our observer delegation has attended each session of the Conference and has acted and spoken only for itself. It continues to do so today.

227. In 1974 the constitutional development of the governmental entities within the Trust Territory of the Pacific Islands had only just commenced. Since that time three separate constitutional Governments have evolved in the Trust Territory, their Constitutions have become effective and they now enjoy and exercise full constitutional self-government. They are the Republic of Palau, the Republic of the Marshall Islands and the Federated States of Micronesia. Each has since 1977 declared a 200-mile zone; each has since 1977 regulated its own 200-mile zone; and each has concluded international treaties relating to the law of the sea and to other matters within the Convention.

228. We support the United Nations Convention on the Law of the Sea. We wish to state today that we shall sign the Final Act on Friday, and, at an appropriate time in the near future, in accordance with our constitutional processes, we expect to become parties to, and to ratify, the United Nations Convention on the Law of the Sea.

229. Lastly, like other delegations that have already spoken, my delegation expresses its gratitude to and admiration of you, Mr. President, and your colleagues; we honour the memory of your predecessor; and we thank the Government and the people of Jamaica for their most generous hospitality.

230. The PRESIDENT: Reflecting the sentiments which all representatives have expressed in their statements, I have taken the liberty of preparing a draft resolution in order to convey our collective appreciation to the Government and the people of Jamaica. May I ask whether representatives would agree to adopt that draft resolution by acclamation?

The draft resolution was adopted.

231. The PRESIDENT: I shall instruct the secretariat to annex this resolution to the Final Act.

The meeting rose at 6.10 p.m.

193rd meeting*

Friday, 10 December 1982, at 9 a.m.

President: Mr. T. T. B. KOH (Singapore)

Report of the Credentials Committee

1. The PRESIDENT: I invite representatives to turn to paragraph 10 of the report of the Credentials Committee, which is contained in document A/CONF.62/123 of 9 December 1982. In that paragraph the Credentials Committee, taking into account the views expressed during its debate,

"Accepts the formal credentials of the representatives that have been received;"

and

"Accepts, as an exceptional measure and subject to later validation, the communications referred to in paragraphs 5 and 6 [of the report] in lieu of formal credentials."

2. May I take it that the Conference is prepared to accept the report of the Credentials Committee by consensus?

It was so decided.

Signature of the Final Act and opening of the Convention for signature

3. The PRESIDENT: I now declare that the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, having been adopted by the Conference, are open for signature. In accordance with the provisions of the Final Act, it will

*On 17 February 1983, an addendum to this meeting (A/CONF.62/PV.193/Add.1) was issued reading as follows:

"Pursuant to the announcement made by the President of the Conference at the 183th plenary meeting on 6 December 1982, the statements of representatives and observers who were unable to take the floor or who had delivered an abridged version of their text will appear in a document of the Conference (A/CONF.62/WS/36). Statements made in the exercise of the right of reply will appear in another document of the Conference (A/CONF.62/WS/37)."

be signed first by the President of the Conference, the Special Representative of the Secretary-General and the Executive Secretary of the Conference.

*The Conference proceeded to the signature ceremony.***

4. The PRESIDENT: I should like to announce that so far there have been 119 signatures of the Convention. We have also received the first instrument of ratification, from the Government of Fiji.

5. I shall now request the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and the Legal Counsel, Mr. Erik Suy, to hand over a copy of the United Nations Convention on the Law of the Sea to the Permanent Secretary of the Ministry for Foreign Affairs of Jamaica, Mr. Frank Francis.

6. Ambassador Francis having now received a copy of the Convention, I shall suspend the meeting until 4 p.m., when the closing ceremony will be held.

The meeting was suspended at 11.45 a.m. and resumed at 4.10 p.m.

Tribute to the memory of Mr. H. S. Amerasinghe, former President of the Conference, and to the memory of Mr. M. Yasseen and other former participants in the Conference

7. The PRESIDENT: I ask participants in the Conference to stand and observe a minute's silence in tribute to the memory of the late President Hamilton Shirley Amerasinghe, and to

**During the signature ceremony, the following Vice-Presidents took the Chair: at 9.20 a.m., Mr. Ul-Haque (Pakistan); at 9.50 a.m., Mr. Sahnoun (Algeria); at 10.15 a.m., Mr. Arias Schreiber (Peru); at 10.40 a.m., Mr. Ballah (Trinidad and Tobago); and at 10.50 a.m., Mr. Evensen (Norway). At 11.15 a.m., the President returned to the Chair.