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COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

SUMMARY RECORDS OF THE FORTY-FIFTH TO THE SIXTIETH MEETINGS

Held at the Palais des Nations, Geneva,
from 12 to 26 March 1971

Acting Chairman :	Mr. WINSPEARE GUICCIARDI	Director-General of the United Nations Office at Geneva
Chairman :	Mr. AMERASINGHE	Ceylon
Rapporteur :	Mr. VELLA	Malta

Note. The list of representatives is to be found in documents A/AC.138/INF.4 and Corr.1 and INF.4/Add.1-3.

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ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
IAEA	International Atomic Energy Agency
IMCO	Inter-Governmental Maritime Consultative Organization
IOC	Intergovernmental Oceanographic Commission (of UNESCO)
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization
WMO	World Meteorological Organization

SUMMARY RECORD OF THE FORTY-FIFTH MEETING

Held on Friday, 12 March 1971, at 11.05 a.m.

Acting Chairman: Mr. WINSPEARE GUICCIARDI (Director General of the United Nations Office at Geneva)

Chairman: Mr. AMERASINGHE Ceylon

OPENING OF THE SESSION

The ACTING CHAIRMAN, after welcoming the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction, said he would now read out a message from the Secretary-General of the United Nations.

The Secretary-General extended his greetings to the Committee, whose membership had been substantially enlarged by the General Assembly. The Committee's very numbers were an indication of the importance which Member States attached to its deliberations and attested to the very great interest which the world had demonstrated in the subjects which came within its mandate. Particular attention was focused on the possibilities inherent in the development for the benefit of mankind as a whole of the vast resources of the sea-bed and the ocean floor beyond national jurisdiction. There was great interest also in the opportunities for new and closer international co-operation that the exploitation of those resources might afford.

The speed of technological advance was no doubt a prime cause of that interest, for it was that, essentially, that opened up new visions of what that largely untouched and predominantly unknown part of the world's surface could offer. One of the problems with which the Committee would have to grapple in the course of its endeavours was that of assessing where technological advance was leading. The aim must surely be to produce for the new Law of the Sea Conference envisaged for 1973 draft articles and texts which would constitute a viable and realistic foundation for international co-operation in the new circumstances into which the world was being projected with such speed.

Only a few weeks before, an important step along that general road - also dictated by technological advance - had been taken in the ceremonies at the opening for signature of the new Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof. The Sea-Bed Committee, which had discussed those matters during the twenty-fourth session of the General Assembly, had played its part in the preparation of that Treaty.

*/ Incorporating documents A/AC.138/SR.45/Corr.1 and Corr.2.

He was sure that everybody shared the hope that other measures of international agreement would follow as the result of the work on which the Committee was embarking in its enlarged form. He was equally sure that no-one was inclined to underestimate either the scope of that endeavour or the amount of work that would be necessary to reconcile diverging views and interests for the common good. The achievement of the Declaration of Principles embodied in General Assembly resolution 2749 (XXV) was evidence that there was reason to be optimistic.

According to most scientists, life had been born in the oceans; perhaps the world's water masses would repeat that miracle and inspire new forms of political co-operation on earth. Unscarred and undivided by the wars of the past, the seas and oceans provided an uninhibited view of what joint endeavours among nations, political systems and various forms of human inventiveness and enterprise could devise. By declaring the sea-bed and ocean floor beyond the limits of national jurisdiction to be the common heritage of mankind, the General Assembly had taken, in his view, a great historical decision, for not only did the seas and oceans cover more than 70 per cent of the earth's surface and provide it with two-thirds of the oxygen it breathed, and with the totality of its life-giving waters, but also they were a reminder of the physical and biological interdependence of the world and of the choices which lay before mankind: to swim or to sink together, to destroy or to preserve that common heritage.

He expressed his best wishes for the success of the Committee's work, as well as his thanks to all those who, with patience and determination, had so well prepared the work it was about to undertake.

ELECTION OF OFFICERS

The ACTING CHAIRMAN called for nominations for the office of Chairman.

Mr. RAMPHUL (Mauritius), speaking on behalf of the African countries, proposed the re-election of Mr. Amerasinghe (Ceylon).

Mr. SARAIVA GUERREIRO (Brazil), on behalf of the Latin American countries, Mr. YANKOV (Bulgaria), on behalf of the countries of eastern Europe, Mr. RIPHAGEN (Netherlands), on behalf of the countries of western Europe, and Mr. KHANACHET (Kuwait), on behalf of the Asian countries, seconded that proposal.

Mr. Amerasinghe (Ceylon) was elected Chairman by acclamation and took the Chair.

The CHAIRMAN said that it had been generally agreed that the Main Committee should have eight Vice-Chairmen and the following eight representatives had been proposed for those offices: Mr. Idzumbuir (Democratic Republic of the Congo), Mr. Ramphul (Mauritius), Mr. Khanachet (Kuwait), Mr. Zegers (Chile), Mr. Solomon (Trinidad and Tobago), Mr. Evensen (Norway), Mr. Natorf (Poland), Mr. Mojsov (Yugoslavia). If there were no other proposal, he would take it that the above representatives could be considered elected.

It was so agreed.

The CHAIRMAN suggested that Mr. Vella (Malta) be re-elected Rapporteur.

It was so agreed.

ORGANIZATION OF WORK

The CHAIRMAN read out the text of the agreement reached on organization of work, as follows:

"Agreement Reached on Organization of Work

"The Committee shall form three Sub-Committees of the Whole.

"The allocation of subjects and functions to the Sub-Committees shall in the first instance be limited to those items on which there is common agreement.

"Treatment and allocation of all outstanding subjects including, inter alia, (1) the precise definition of the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction and (2) peaceful uses of that area shall be left for determination by the Committee. It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction. It is clearly understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors.

"On this understanding and in accordance with the mandate of the Committee as defined in resolution 2750 C (XXV), the following subjects and functions shall be allocated to the three Sub-Committees respectively:

"Sub-Committee I	:	To prepare draft treaty articles embodying the international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national

jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof beyond the Limits of National Jurisdiction, economic implications resulting from the exploitation of the resources of the area [resolution 2750 A (XXV)] as well as the particular needs and problems of land-locked countries [resolution 2750 B (XXV)].

"Sub-Committee II : To prepare a comprehensive list of subjects and issues relating to the law of the sea, including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States) and to prepare draft treaty articles thereon. It is understood that the Sub-Committee may decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea.

"Sub-Committee III : To deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research and to prepare draft treaty articles thereon.

"The Bureaux shall consist of a total of 25 members on the principle of equitable geographical distribution, the distribution being as follows:

"Main Committee	Chairman:	Asia
	Vice-Chairmen:	Africa (2) Asia (1) Latin America (2) Western European and Others (1) Eastern European (1) Yugoslavia (1)
	Rapporteur:	Western European and Others

"Sub-Committee I	Chairman:	Africa
	Vice-Chairmen:	Asia Latin America Eastern European
	Rapporteur:	Western European and Others
"Sub-Committee II	Chairman:	Latin America
	Vice-Chairmen:	Africa Asia Eastern European Western European and Others
	Rapporteur:	Africa
"Sub-Committee III	Chairman:	Western European and Others
	Vice-Chairmen:	Africa Latin America
	Rapporteur:	Asia

"It was also agreed that, at the formal meeting, the first item would be the election of the Chairman of the Main Committee, thereafter the election of the Vice-Chairmen and Rapporteur, followed by the election of the Bureaux of the three Sub-Committees."

He suggested that the text he had read out be reproduced verbatim in the summary record.

It was so agreed.

The meeting was suspended at 11.45 a.m. and resumed at 12.15 p.m.

The CHAIRMAN said that the present meeting was the first to be held in accordance with resolution 2750 C (XXV) adopted by the General Assembly at its twenty-fifth session. He particularly welcomed the new members who had been appointed in pursuance of the General Assembly's decision to increase the membership of the Committee from 42 to 86.

The twenty-fifth session of the General Assembly had been memorable for the adoption of the Declaration of Principles Governing the Sea-bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction. That Declaration was the climax of three years of unremitting effort in the ad hoc Committee and in the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor, and marked the completion of the first stage in the formulation of new international law in a new

domain. It was in recognition of the need to develop the new international law and to elaborate the existing law of the sea that the General Assembly at its twenty-fifth session had decided, circumstances permitting, to convene a conference on the law of the Sea in 1973. The terms of reference of the conference were set forth in operative paragraph 2 of resolution 2750 C (XXV). In operative paragraphs 4 and 5 respectively of that resolution, the General Assembly had reaffirmed the Committee's mandate as set forth in resolution 2467 A (XXIII) and increased its membership by 44. In operative paragraph 6, the General Assembly had extended the Committee's mandate in the light of the proposed conference.

During the three years of discussion in the United Nations, the international community had shown an ever increasing interest in the subject, not merely because of the attractions of the wealth awaiting exploitation but also because of the almost unrivalled opportunity and scope for international co-operation in a spirit more consonant with the principles of the Charter than the pursuit of national or regional interests. The alternative would have been fierce competition and rivalry between nations and groups with the inevitable effect of heightening international tension and increasing existing economic disparities throughout the world. The acceptance of the idea of the common heritage of mankind which gave a unique status to the area and its resources held out the promise of a new era of fruitful international co-operation.

The General Assembly, in requiring the Committee to prepare for the forthcoming conference the draft instruments that would regulate activities and international behaviour in the marine environment and place the law relating to it on a stable and enduring foundation, had assigned it a great responsibility. The increase in membership from 42 to 86 was an indication of the importance of the task and the interest aroused by the subject.

The mandate under resolution 2750 C (XXV) was substantially different from and wider than the mandate under resolutions 2467 A (XXIII) and 2574 B (XXIV). Whereas the original mandate called for recommendations to be submitted to the General Assembly, the new mandate transformed the enlarged Committee into a preparatory body for the proposed conference on the law of the sea. The scope of the Committee's deliberations covered not merely the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction, but all the related issues of the law of the sea.

As in the past, the Committee would need the advice, assistance and co-operation of the United Nations secretariat and of the many institutions in the United Nations system which had an interest in the subject. In particular, assistance would be needed from the United Nations Conference on Trade and Development in the study of the economic implications and repercussions of the exploitation of the sea-bed mineral resources and their entry into the world market; from UNESCO and its Intergovernmental Oceanographic Commission (IOC); from FAO and its Committee on Fisheries; from WHO; from IMCO, and from WMO and IAEA.

The meeting rose at 12.40 p.m.

SUMMARY RECORD OF THE FORTY-SIXTH MEETING

Held on Monday, 15 March 1971, at 11.15 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS

The CHAIRMAN said that before the Committee embarked on detailed discussion, he would invite those members who so wished to make general statements of their position.

Mr. ARIAS SCHREIBER (Peru) said that a great many political, legal, scientific and technical changes affecting the law of the sea had taken place since the Geneva conferences of 1958 and 1960.

The first and most significant political change, which would undoubtedly have an important bearing on the revision of the old rules and the preparation of new ones, was the accession to independence of 35 States which had not been in a position to participate in the drafting, discussion and adoption of the earlier Conventions. Many of those States were now members of the Committee.

The second change, which was a consequence of the first, was the growth of co-operation among the developing countries, the increasing awareness of their common problems, and the realization that their fight would end only with the elimination of the economic dependence that colonialism, old and new, tried to impose on them to protect its own prosperity and power at the expense of the poorer countries. With increasing support from the medium States those countries whether they were called the third world, the non-aligned countries or the Group of 77 - now 91 - were successfully defending their right to use the resources of their own territories and the contiguous seas for the wellbeing of their own peoples. Their unity was apparent from the fact that they now took up positions and issued joint documents. Although they had supported neutral ideas in matters of organization and procedure in order to get the work started, and were ready to help in seeking solutions which would reconcile divergent interests, they would defend their basic rights to exercise their sovereignty over the adjacent seas and the establishment of an international régime for the sea-bed beyond the limits of national jurisdiction, which would take account of the special needs of the developing countries.

From the point of view of the distribution of forces, the political situation had clearly changed over the past ten years. Today the developing countries represented two-thirds of the world and the new rules of the law of the sea would have to be adapted to that situation, so as to meet their demands for a juster system, consonant with the aspirations of their peoples for a better life.

In the legal sphere, changes since 1958 had been no less profound. The thesis put forward by Chile, Ecuador and Peru at the Geneva conferences, and supported by very few other countries, was now a doctrine shared by most South American States and half the Central American States. El Salvador had already adopted the 200 mile limit in 1950. It was followed in 1965 by Nicaragua, in 1966 by Argentina, in 1967 by Panama, in 1969 by Uruguay and in 1970 by Brazil. All had become convinced that the 200-mile limit was the most reasonable and appropriate for the protection and exploitation of their resources against the ambitions of fishing fleets from distant countries bent on operating off their coasts to the detriment of the coastal States. In 1970 Canada had extended its jurisdiction to 100 miles in the Arctic Archipelago for purposes of pollution control, thereby establishing fishing limits at the entrances to certain zones whose resources it wished to reserve for its nationals.

Six countries in Asia had extended their jurisdiction beyond the 12-mile limit. In 1952, the Republic of Korea had established an exclusive fisheries zone of from 20 to 200 miles. In 1956, India had established a fisheries conservation zone of 100 miles beyond the territorial sea; Ceylon had done the same in 1957 and Pakistan in 1966. The Philippines and Indonesia had adopted the archipelago concept under which their territorial waters were delimited by base lines drawn between the remotest islands of the Group.

Six countries in Africa also had extended their jurisdiction beyond the 12-mile limit. In 1963, Ghana had fixed 100 miles as a fisheries conservation zone. In 1964, Guinea had extended the limits of its territorial sea to 130 miles. In 1967, Cameroon had extended the limits of its territorial sea by 18 miles. In 1968, Senegal had established an exclusive fisheries zone of 18 miles, while also in 1968, Dahomey had extended its jurisdiction over the sub-soil of its continental shelf to 100 miles from the coast. In 1970, Gabon had fixed the breadth of its territorial sea at 25 miles. Several other countries were considering extending their national jurisdiction, either in the same way as the Latin American States, where that was geographically feasible, or by special methods such as the establishment of exclusive fishing rights up to the limits of the continental shelf. Of the rest, many had extended the limits of their national jurisdiction from three or six to twelve miles, thus abandoning positions for which some had fought so hard in the 1958 and 1960 Geneva conferences.

There were three conclusions to be drawn from that. First, that there was a clear and irreversible trend towards the extension of national jurisdiction; secondly, that the trend was not peculiar to Latin America; and thirdly, that the narrow limits made were not as sacrosanct as had been claimed in 1958. More than 40 States had extended the limits of their territorial waters or fishing zones up to 12 miles while 22 exercised jurisdiction beyond 12 miles, and the process was continuing.

Those who opposed revision of the old standards deplored the new trend for the sole reason that it affected their interests. They resorted to every kind of pretence to try to prevent the inevitable: they criticized unilateral declarations although they themselves had used them when establishing their maritime jurisdiction; they claimed that the new miles constituted a danger to international communications; they talked of chaos in the oceans and of their being as many limits as there were countries; they invoked the international community as though they were its guardians, regardless of the fact that it consisted largely of the developing countries, whose interests they ignored or interpreted as it suited them.

Other methods of persuasion have been described by Mr. Wilbert McLeod Chapman, in a report on "The United States fishing industry and the United Nations Conferences on the Law of the Sea, 1958 and 1960", submitted on 24 June 1968 to a panel entitled "The Geneva Conference - Ten years after", held at Rhode Island. According to his report, diplomatic pressure of the crudest type had been applied both in Geneva and in all the world capitals. The question of fisheries jurisdiction, in which the two principal Powers had not been particularly interested, had destroyed all attempts to obtain a two-thirds majority on any proposal on the breadth of the territorial sea or on jurisdiction over fishing in the high seas. It had been impossible either to separate the two problems or to obtain a favourable vote on either of them. The conference had ended without any proposal being adopted on those questions.

In the same report, referring to the 1960 Conference it was alleged that lobbying, disruption, intimidation had been even fiercer than in 1958. The dispute had been sharply centred round the United States of America and the Union of Soviet Socialist Republics and had involved military aspects. The fishing problem had been an even more troublesome intrusion. Although neither of the two sides had won in 1958, the United States proposal had obtained more votes than that of the USSR. In 1960 the United States had extended its advantage but once more no proposal had been adopted.

Those accounts needed no comment. The developing countries would counter such methods by legal arguments and by unity in defending their interests.

With regard to the legal arguments, the principles on which their conception of the new law of the sea was based had been clearly stated. Coastal States were entitled to dispose of the natural resources off their coasts for the promotion of the development and welfare of their peoples. They likewise had the right to prescribe regulations to prevent pollution and other harmful effects from the use, exploration and exploitation of the ocean space adjacent to their territories. In order to achieve those two purposes, and in the exercise of their sovereignty, the coastal

States had to establish the limits of their maritime jurisdiction in accordance with reasonable criteria taking account of geographical and ecological characteristics and the need to benefit from their resources. Within the limits of that jurisdiction the coastal States had to adopt regulations governing fishing, whaling and the exploitation of the sea-bed and its subsoil. Also within those limits, the coastal States had the right to authorize, supervise and take part in any scientific research that other States or international organizations might wish to carry out, and to receive the results of such research. In the exercise of those rights there should be mutual respect for the rights of adjacent and coastal States of the same sea and for freedom of international communication without flag discrimination.

A consequence of the third of those principles was that, in view of the diversity of conditions, it would be unjust to adopt a single limit of national jurisdiction for all States; the only acceptable solution was to recognize a plurality of régimes, if possible on a regional basis.

Additional principles were those set forth in the Declaration of Principles contained in resolution 2749 (XXV) of 17 December 1970, that the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as the resources of the area, were the common heritage of mankind; that the use of that area should be governed by an international régime and an international authority which would ensure the equitable sharing of the benefits, taking into account the interests and needs of the developing countries, whether landlocked or coastal.

Those ideas had not been thought up overnight; far from being capricious they were the result of lengthy consideration, at both the national and the international levels. Parts of them were contained in the Declaration of Montevideo of 8 May 1970, the Declaration of Lima of 8 August 1970 and the Lusaka Declaration of 10 September 1970. They had all been put forward by the Latin American observers to the twelfth session of the Asian-African Legal Consultative Committee, held in Colombo in January 1971. In October 1970, the Eighth Congress of the Hispano-Luso-American Institute of International Law had approved a resolution setting out all those principles.

The facts he had outlined covering the decade 1960 to 1970 were undeniable and could not be interpreted otherwise than as the recognition of the clear will of the developing countries for an extension of their national jurisdiction to protect and exploit their resources. That will had crystallized through regional understandings, such as those reached in Latin America where nine States exercised jurisdiction up to

a limit of 200 miles. Other countries, some of them European, were reaching very similar agreements for the division of the continental shelf, in the North Sea for example, or fishing agreements to meet their mutual needs. There was obviously a determination to change the old rules of the law of the sea, a determination which could no longer be ignored and which marked a substantial change in the legal situation since the time of the Geneva conferences.

In the scientific and technical fields, changes in the past ten years had been even greater and had opened up possibilities of exploration and exploitation which until recently would have been beyond belief. Traditional fishing methods were being replaced by new methods involving mass detection and catching with electronic, chemical, accoustical and other devices. The use of factory ships, aircraft, satellites, and the help of research and prospecting centres, warehousing and processing plants had revolutionized fishing activities.

Those changes, however, were modest compared with progress in the exploration and exploitation of the continental shelf and the sea-bed and its subsoil. Inspired by the results of the past ten years, undertakings in the developing countries had perfected new geophysical, electronic, gravitational, magnetic, seismic and other techniques and with the aid of aerial and sea photography and submarine equipment had succeeded in identifying a rich variety of solid, liquid and gaseous deposits, including minerals, precious and semi-precious stones, oil and gas. Apart from sedimentary deposits of heavy minerals such as tin, gold, platinum, diamonds and various semi-precious stones, in and on the sea-bed had been found the famous manganese nodules associated with nickel, copper and cobalt, while in the subsoil every variety of deposit had been discovered, principally oil and gas but also coal, iron ore, nickel and copper, sulphur, and many others.

It was still difficult to predict the scope of the activities which would have to be carried out in order to extract such a large variety of resources; that would depend on a number of factors of not only a scientific and technological but also of an economic nature. One thing, however, was certain, that the growing exploration and exploitation of the ocean and its soil and subsoil would raise increasingly serious problems, especially for coastal States, either through the presence of large fleets which might exhaust their living resources or at least harvest them more efficiently than the local fishermen, or through the proliferation of installations and operations for prospecting and exploiting mineral resources. The latter activities would necessarily lead to greater interference with other marine activities such as fishing

and navigation and would also increase the dangers of pollution. It was understandable, therefore, that the coastal States, particularly developing countries, had to take timely action to defend their resources and their populations.

There were some who thought that for that purpose it was not necessary for States to take unilateral action or to extend their national jurisdictions, but that international agreements were sufficient. Unfortunately, experience had shown that, although all kinds of resolutions of a political, economic and social character were adopted year after year, many of those resolutions were not respected and remained unfulfilled. As a reaction to the abusive practices which were exterminating whales, among other species, a 200-mile limit had been established by Chile and Peru in 1947, but it had unfortunately come too late. The recommendations of scientists that the annual quotas set by the International Whaling Commission should be drastically cut had been ignored by the States Members because their respective enterprises refused to reduce their immediate profits. The result was well known. The most coveted species had reached the point of extinction, and those whale factories which still existed in some countries were going bankrupt one after the other. It could only be concluded that international agreements were not sufficient to save a once flourishing industry. On the other hand, in his own country, the extension of national jurisdiction to the 200-mile limit had in a few years enabled his people to develop an industry which had made Peru the first fishing nation of the world in terms of its total catch.

The Committee, therefore, could easily understand the interest of Peru and other States with similar possibilities in defending principles and rights which were closely connected with the progress and wellbeing of their peoples. On the other hand, he himself could not understand certain observations made by the representatives of other countries. For example, in an article on United States maritime policy published by the Journal of Maritime Law and Commerce, No. 2, January 1971, Mr. Leigh S. Ratiner, referring to the resistance of certain countries to the idea of reducing the limits of their territorial seas, had expressed the opinion that at a certain point, in the effort to modernize and revise the law of the sea, such countries might very well have to swallow their national pride. In reply to that kind of language, he could only say that his country was prepared to swallow neither its national pride nor the bait extended to it in the guise of generous gestures whose real meaning it knew only too well.

Mr. Bernard H. Oxman, in a statement made on 19 February 1971 before the Marine Technology Society of Washington D.C., had referred to the obstructionism of a few stubborn countries which felt obliged to defend an extravagant and obsolete parochialism. During the last two weeks, however, his delegation had witnessed the obstinacy displayed by "a few stubborn countries" in order to avoid approving a neutral document; in the light of that experience, it might well be wondered who really were the ones who were obstructing the majority will. As far as starving peoples were concerned, it might also be wondered who were the ones responsible for a policy which, in order to protect the greed of their private enterprises, did not hesitate to resort to threats, reprisals and even the freezing of international credits against countries whose alleged crime was to have defended their inalienable right to the full utilization of their natural resources in the interests of their national development.

With regard to the increase in food prices, the estimates of experts had shown that excessive fishing tended to raise prices because costs rose as profits declined, and that prices were also higher in proportion to the distance covered by fishing fleets. Consequently, local fisheries, properly regulated by the coastal States, constituted the best practical means for reducing the cost of marine food products.

In the article he had already referred to, Mr. Ratiner had helped to clarify the situation by stating that the fundamental question was what the United States could do to counteract unilateral claims of jurisdiction which were inconsistent with its interests. Before answering that question, the author had tried to define the interests of the United States as being, first, that of the fishing industry in distant waters, which wished to be free to fish as close as possible to foreign shores; secondly, that of marine technology, which was interested in gaining much higher profits than could be obtained from the coastal waters of the United States; thirdly, that of the United States armed forces, which needed maximum mobility in their own and foreign seas; fourthly, that of the merchant marine, which wanted narrow limits of jurisdiction in order to reduce the additional costs which might result from coastal restrictions; and fifthly, that of scientific institutions in having the widest possible freedom for the investigation of ocean areas, including those close to the coast of other countries. Summing up all those interests, he had concluded that the United States should undertake a "counter-revolution" in order to put a stop to the extension of national jurisdictions. All that was very understandable from the point of view of the United States Government, but other countries, including the developing countries, were unable to see why they should sacrifice their rights in order to promote the special interests and prosperity of the United States. That was the crux of the matter.

The United States and the other countries to which he had referred were not content with explaining the advantages which they hoped to obtain for themselves through that "new ocean policy", but also made so bold as to interpret what they considered to be the interests of other nations. In effect, their argument was that, with a few exceptions, those interests consisted in having narrow limits of national jurisdiction, while, on the other hand, they could participate in the benefits of an international régime of the sea-bed and ocean floor. But the developing countries did not need to be told where their own interests lay; in that respect they were already sufficiently developed.

He was led to the conclusion, therefore, that the international zone of the sea-bed and ocean floor, as conceived by the authors of the so-called "Nixon proposal", was an instrument designed to counter the extension of national jurisdictions in so far as the latter conflicted with certain interests of the United States. That instrument was undoubtedly an ingenious one and made use of a praiseworthy idea: namely, that the zone and its resources were the common heritage of mankind. The authors of the proposal hoped that nobody would dare to object to that idea and that all the other States would agree to reduce the extent of their maritime jurisdiction in the hope, or perhaps the illusion, of obtaining greater benefits from a distribution of the profits derived from the exploitation of the international zone. Nobody, of course, would dispute the concept of a "common heritage" itself; however, some might dispute the way in which it was interpreted.

The question most open to dispute was how much profit would be obtained and how it could be fairly divided. On that point, he would observe, first, that it could hardly be claimed that States should define their positions in matters of such great importance as the limits of their maritime sovereignty on such uncertain and problematical bases as the profit they hoped to derive from the exploitation of the sea-bed and the ocean floor, at a time when the scope of the available resources, the technical possibilities for their exploitation and their market profitability were still not known with any certainty. Secondly, that it was impossible to speak of a fair distribution of profits under a system like the one proposed, which gave free rein to private enterprises to dispose of the resources exploited by them.

He had already stated in the First Committee of the General Assembly that the net profits of the international authority would be reduced to the amounts grudgingly given in the form of licences, taxes and other charges; that a part of that revenue would be allocated for the administrative expenses of the organization; that another

part would be used to promote the efficient exploitation, investigation and protection of the marine environment. Only when all that had been deducted would the balance be used to encourage the economic progress of the developing countries, since it would first be divided among the international and regional organizations working in that field and would finally be distributed among such a large number of countries that the amount received by each would be actually insignificant.

That point of view had been confirmed by a report by Mr. Francis T. Christy, Jr., of Resources for the Future, Inc. of the United States, to the Conference on the Exploration and Exploitation of the Sea-bed and Ocean Floor and the Sub-soil Thereof, which had been held in Strasbourg from 3 to 5 December 1970. In that report, Mr. Christy had said that the initial operations would not result in any satisfactory profits from the production of minerals of marine origin and that even if they did, most if not all of the profit would have to return to the pioneer investors because of the high risks which they would have to take. That meant that only what was left of the profit, if anything, would go to the international community. He had gone on to say that it did not seem possible to make any worthwhile utilization of the resources of the sea-bed at depths below 200 metres during the next ten or twenty years, and that even if such utilization might be attractive, it would not represent any great economic advantage for the international community or for the parties to an international régime. He had concluded by saying that there was no economic reason whatever to take any immediate decision concerning the administration of submarine resources in the disputed zone or beyond it, and that there was no immediate economic need for establishing specific regulations for the exploitation of the minerals of the sea-bed beyond national limits.

In the light of those criticisms, there was reason to believe that the proposal for an interim régime was premature and that the new attempt to stop the extension of national jurisdiction by holding out the promise of illusory profits would not persuade responsible statesmen to agree to renouncing the sovereignty of their States in favour of a régime based on such unrealistic foundations.

His Government would continue to defend itself resolutely against all systems which attempted to encroach upon its rights, since it was firmly convinced that it was fighting for a just cause and that the humanistic and socio-economic inspiration behind the new rules advocated by it for the Law of the Sea would prevail over the mercantile conception, and that sooner or later it would be recognized that the welfare of peoples took priority over the excessive profits of private enterprise.

Mr. MYRSTEN (Sweden) said that neither customary international law nor treaty law contained any extensive rules with regard to activities on the high seas, the ocean floor and the sea-bed. Until recently, exploitation of those vast areas had not been sufficiently intensive to warrant many specific rules and the international community had been able to afford a laisser-faire approach.

But rapid technological evolution had greatly increased activities in those areas and now made that approach out-of-date. There was an urgent need to organize close international co-operation on the subject in order to avoid grave political and military tensions. States must be prepared to sacrifice what might at present be considered national advantages in order to reach solutions that would benefit the international community and consequently, in the long run, their own countries. His delegation felt that in the work of the Committee, the approach to be adopted must be broader than a mere agreement on a statically calculated common denominator. Otherwise, in a not too distant future, the same problems would recur in an aggravated form and would then be much more difficult to solve.

- With regard to the establishment of an international régime, the Committee would be guided by the Declaration of Principles adopted without dissent by the General Assembly in its resolution 2749 (XXV). The practical importance of those principles, however, largely depended on the extent of the area in which they would be applied. Sweden strongly favoured setting aside for the international community an areas as vast as possible, so that the developing countries could benefit from the profits of the envisaged exploitation of the resources of the sea-bed. A prolonged race towards the great depths could lead to dangerous conflicts among nations. Moreover, it was unlikely that the sea-bed would be used only for peaceful purposes unless it were placed under international jurisdiction.

- The machinery for the implementation of the international régime should at least provide for a system of leases or licences for exploration and exploitation. Operational activities by the international machinery should not be precluded, if future development made it desirable.

International agreements should be concluded as soon as possible in order to give full effect to the principle that the sea-bed and the ocean floor, and the subsoil thereof, should be reserved exclusively for peaceful purposes, as a move towards the exclusion of that area from the arms race. The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof - recently opened for signature - constituted a first limited step towards achieving the fulfilment of the principle in question.

His delegation attached great importance to article V of that Treaty, by which the Parties undertook to continue negotiations "concerning further measures in the field of disarmament for the prevention of an arms race on the sea-bed, the ocean floor and the subsoil thereof". It hoped that the Committee would reach agreement on an over-riding rule to the effect that, in the interest of the pursuit of peaceful activities in the area, all unauthorized activities should be excluded, particularly those serving national military purposes.

With regard to the Committee's task of preparing subjects and issues for the 1973 Conference on the Law of the Sea, he said that frequent and escalating claims for an extended territorial sea had brought about a chaotic state of affairs in that particular sector of the law of the sea. An international agreement fixing a reasonable maximum breadth for the territorial sea could alone restore order and avoid potential conflicts. The questions involved had been carefully examined in the past and were well known to international law; the time had come to solve that particular problem.

Another problem of the law of the sea was that of the outer limits of the continental shelf, or of the area of application of the international régime. The criterion of exploitability embodied in the 1958 Convention on the Continental Shelf permitted the limit to be extended successively and gave an unfair advantage to technologically advanced nations. The question whether a depth or a distance criterion, or a combination of both, constituted the best solution of that problem, was something that must be negotiated within the Committee.

The question of reaching international agreement to take effective measures to deal with the alarming problems of marine pollution was a part of the total problem of the regulation of activities on high seas, the ocean floor and the sea-bed. Particular attention should be paid to neglect by a State to combat marine pollution which affected other States. The problem of marine pollution had therefore very properly been included in the agenda for the 1973 Conference on the Law of the Sea. When preparing for that Conference, however, the Committee should, in the interests of efficiency, take into account other current activities such as the United Nations Conference on the Human Environment to be held in 1972 and the IMCO Conference planned for 1973.

At its recent meeting, the Preparatory Committee for the Conference on the Human Environment had singled out marine pollution as an important problem to be considered

by that Conference, and an intergovernmental working group would be set up to prepare recommendations on the subject. The results of that Conference might well include specific recommendations to the Law of the Sea Conference and the IMCO Conference.

He would conclude by reminding members that, when dealing with a great number of issues which arose, it must always be borne in mind that an existing system - whether codified or not - should not be destroyed until agreement had been reached on a suitable alternative to replace it.

Mr. TARCICI (Yemen) said that, as a new member of the Committee, his delegation wholeheartedly welcomed the General Assembly's historic decision to adopt in its resolution 2749 (XXV) the Declaration of Principles Governing the Sea-bed and the Ocean Floor and the Subsoil Thereof beyond the Limits of National Jurisdiction, and in particular the declaration that the area in question and its resources constituted "the common heritage of mankind". The principles of justice and equity set forth in that Declaration also underlay General Assembly resolution 2750 (XXV), which reflected the concern of the international community at an alarming factual situation.

For it was a fact that, until the present time, the rich resources of the world had been exploited for the benefit of a minority of mankind. The wealth acquired by that minority had enabled it to make great scientific and technological progress. As a result, it had acquired a supremacy in terms of real strength which enabled it to monopolize modern means of exploitation.

It was that unfair factual situation which had led to the division of the world into nations and groups of people which were getting richer every day and nations and groups of people which were getting poorer every day. The gap between the rich minority of the exploiters and the poor majority of the exploited was steadily widening. UNCTAD, the specialized member of the United Nations family established precisely for the purpose of devising remedies to bridge that gap, had not been provided with means commensurate with the task. All the plans worked out by that body had proved vain and its present efforts amounted to no more than an attempt to try to prevent the gap between the two worlds from increasing. Unfortunately, the majority of observers viewed even those efforts with pessimism.

At present, the resources of the sea and the sea-bed and the subsoil thereof, formed part of the wealth available to the rich minority of mankind. That rich minority, however, had realized the dangers involved in such an unequal situation and had accepted the principle that the resources should be shared. The agreement reached

on that principle represented a step forward which reflected credit on the international community. Unfortunately, the declared intentions of the developed countries did not always find an adequate reflection in practice.

The commercial undertakings which exploited the resources in question, and the forces which supported them, had preoccupations which were at variance with the principles adopted by the General Assembly. Their main preoccupation was not the development of the resources available to mankind as a whole; it was to secure for themselves access to the resources of distant areas and to continue to exploit those resources without sharing the profits equitably with the dispossessed. According to statements made by representatives of those interests, efforts were being made to hasten the exploitation of certain of those resources in order to bring pressure to bear on those countries which were demanding a larger and fairer share of the profits, precisely in order to overcome their underdevelopment.

One example among many was provided by the exploitation of oil and natural gas. Recent statements showed that the companies engaged in the exploitation of those resources were envisaging a great extension in their operations on the sea-bed. The production of oil and natural gas from marine areas, which represented 19 per cent of total world production in 1970, was expected to increase to between 45 and 50 per cent in 1985, according to forecasts by the undertakings engaged in that production. Those undertakings possessed enormous technological resources which enabled them to carry out those plans. The extent of those resources was illustrated by the items displayed at an exhibition recently organized at an Atlantic port. Efforts were being made to concentrate attention on areas far removed from the coasts, where the exploitation of resources required very advanced and costly equipment.

Every effort was thus being made to prevent the developing countries from obtaining revenues comparable to those which would be paid for a similar exploitation in developed countries. A similar situation existed in respect of practically all natural resources, in particular manganese, nickel and other rare metals to which reference had been made by the Peruvian representative.

It was necessary for the wealthy countries to get away from the selfish approach adopted by certain circles in those countries which disregarded the principles adopted by the United Nations. Otherwise, the Committee's proceedings would drag on endlessly. His delegation hoped that the representatives of the developed countries would be able to free themselves from the influence of selfish monopolist interests. If that influence prevailed, the existing imbalance would be aggravated and the gap between the rich and the poor would become even greater.

The younger generation in the developing countries, which was naturally especially concerned with that problem, was no longer willing to accept the view that those countries' condition of inferiority was a sort of hereditary taint for which there was no remedy. They considered that situation to be an injustice, against which it was their duty to struggle by every possible means. The Declaration of Principles accepted by the United Nations recognized, as a matter of equity, that a substantial share of the enormous wealth represented by the resources of the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, should benefit the developing countries. That share should be proportionate to the actual needs of those countries. His delegation urged that the measures to be prepared and the draft instruments to be formulated by the Committee should have as their objective the achievement of the fair distribution of resources essential to a well-balanced international society.

The CHAIRMAN suggested that the list of speakers in the general debate be closed at 6 p.m. on Wednesday, 17 March 1971. If there were no objection, he would take it that the Committee agreed to that course.

It was so agreed.

The meeting rose at 1.5 p.m.

SUMMARY RECORD OF THE FORTY-SEVENTH MEETING

Held on Monday, 15 March 1971, at 3.20 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. PINTO (Ceylon) said that the first question on which he would give his views was that of priorities. His delegation believed that the basic elements of an international régime for the sea-bed and ocean floor (nature of the jurisdiction or control exercised by the international authority, powers and functions of that authority and the decision-making process) should be clearly defined in an agreed memorandum before the question of the limits of national jurisdiction over the sea-bed and ocean floor was decided upon. Priority, in that connexion, meant priority in time, priority in the order of discussion. It did not mean that the articles of the treaty on the international régime and allied questions would have to be adopted or given a final form before the question of limits of national jurisdiction could be tackled. His delegation thought that an agreed memorandum on the essential points regarding the régime would be sufficient. Pending agreement on such a text, it would accept that the question of limits might be brought up at any moment, in any forum, provided that it was in connexion with the question under study. His delegation was concerned only that the limits of national jurisdiction should not be determined until substantial agreement had been reached on the elements of the régime.

The extent of the national jurisdiction which Ceylon might claim or recognize would depend on the existence of a viable international authority with comprehensive powers and acceptable decision-making processes. If such an authority were established and offered the prospect of real benefits to the international community and particularly to the developing countries, his Government would be willing to consider relatively narrow limits of national jurisdiction and would hope to be able to persuade the overwhelming majority of countries to that view, whatever their current claims. On the other hand, if agreement could only be reached on machinery of limited scope - a registry of claims, for example, which left the international area a prey to unrestrained exploitation for selfish ends - Ceylon might also find itself compelled to espouse selfish ends, to acquire the means of achieving them by private contract and to lay claim to areas of national jurisdiction commensurate with its aspirations.

There were some who advocated a simultaneous decision on the régime and on the limits. Others affirmed that the only logical solution was to determine the limits of national jurisdiction first and elaborate the international régime afterwards. In such

a case, what would be the point of reference in discussing the limits? Every group, perhaps every State, would have its own private view, its own sacrosanct criterion, defensible in terms of its own aspirations; a 12-mile or a 200-mile breadth, a 200-metre or 500-metre depth, etc. On the other hand, if there were an agreed framework for a new international order and a strong and viable international machinery capable of maintaining a just and equitable order, national aspirations would tend to be tempered and work on the subject of the limits of national jurisdiction would have a firm and reasonable point of reference.

There should be no serious controversy concerning the question of priority. In its resolution 2574 (XXIV), the General Assembly requested the Secretary-General to ascertain the views of Member States on the advisability of convening a conference on the law of the sea, particularly in order to arrive at a definition of the international sea-bed area "in the light of the international régime to be established for that area". In operative paragraph 6 of General Assembly resolution 2750 C (XXV), the Committee was instructed to prepare, initially, draft treaty articles embodying the international régime - including an international machinery - and subsequently, but only subsequently, a comprehensive list of issues relating to the law of the sea which should be dealt with by the conference as well as draft articles on such subjects. In preambular paragraph 7, the Assembly declared that it was convinced that the elaboration of an equitable international régime would facilitate agreement on the questions to be examined at the suggested conference. Therefore, the régime had to exist prior to the agreement and, consequently, it had priority.

He then quoted statements made in the First Committee and in the General Assembly on behalf of the delegations which had submitted the draft of resolution 2750 C (XXV) - notably the statement in which the representative of Canada had emphasized that operative paragraph 6, taken in conjunction with preambular paragraph 2, established priority for the international régime, in the sense that the International Law Commission understood the term.1/ By that, the representative of Canada undoubtedly meant priority in time, in discussion, since it was the Commission's custom to tackle one topic after another in accordance with an order established by it in the light of the legal requirements of the international community. The Canadian representative had stated that it was not the intention of the sponsors that the preparatory work on such topics as the precise delimitation of the sea-bed area should not commence before the drafting of the sea-bed

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1/ See A/C.1/PV.1799 and A/PV.1933.

régime had been completed. Since the other sponsors of the draft had accepted that statement without comment one could only conclude that they had then been willing to accept the priority principle contained in the resolution and, consequently, were still willing to accept it.

The second question was that of the forum in which the precise limits of national jurisdiction over the sea-bed should be considered and recommendations on the issue formulated. His delegation unreservedly endorsed the passage in the agreed conclusions on the organization of work[2/] whereby, in connexion with the matters allocated to them, the Sub-Committees were entitled to consider the precise definition of the area of the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction. Consequently, the three Sub-Committees - and the Committee itself - were entirely free to discuss the question of limits as and when that subject was relevant to their work. In his delegation's view, undue formalism in the delimitation of topics could inhibit progress in the work and lead to false conclusions.

Nevertheless, the elaboration of recommendations concerning sea-bed limits was quite a different matter and should be reserved to Sub-Committee II which was concerned, inter alia, with the régime of the continental shelf. It would, in fact, be better to assign all questions of delimitation to one and the same body. That did not mean that the system of delimitation arrived at for the sea-bed should necessarily be reflected in a single treaty dealing with all aspects of delimitation. On the contrary, his delegation would prefer that the sea-bed delimitation principle recommended by Sub-Committee II should be incorporated in the treaty on the international régime to be drafted by Sub-Committee I. Thus, Sub-Committee II would prepare recommendations on the delimitation of the sea-bed without prejudice to their final inclusion in one or more treaties.

Clearly, none of those considerations affected the competence of the Committee to discuss any issue of substance or any problem of delimitation that might remain intractable, or to exercise in any other manner its co-ordinative and supervisory functions, directed at the most efficient and expeditious implementation of its mandate.

The third issue was that of allocation to one or other of the Sub-Committees or to the Committee itself of the item: "peaceful uses of the area". In the Declaration of Principles Governing the Sea-Bed and the Ocean Floor [General Assembly resolution 2749(XXV)] the Assembly declared that the area would be reserved exclusively for peaceful purposes and that "one or more international agreements shall be concluded as soon as possible in

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2/ For the text, see the summary record of the forty-fifth meeting, under the heading "Organization of work".

order to implement effectively this principle and to constitute a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race" (operative paragraph 8). The implications of paragraph 8 required most careful study. Were the resources of the area reserved exclusively for peaceful purposes? What was the exact meaning of the term "subsoil" if it did not encompass the mineral resources of the sea-bed?

His delegation attached great importance to that topic but, for the moment, did not wish to take a firm position as to the forum in which it should be discussed. The subject had clear implications for the international régime to be elaborated by Sub-Committee I but those implications ranged much further afield than the régime and could possibly make it a fit subject for discussion in the Committee itself. His delegation would, however, prefer to make a careful assessment of the progress achieved with regard to the international régime, and particularly its scope, before reaching a conclusion on that point.

The fourth topic related to the comprehensive list of subjects concerning the law of the sea, to be drawn up by Sub-Committee II. His delegation welcomed the understanding recorded in the agreed conclusions whereby the Sub-Committee would have the power to prepare draft articles before the list was completed. That indicated that everyone concerned intended to proceed to drafting as soon as possible.

The preparation of the list was one of the important functions of Sub-Committee II and it would be unwise to underestimate the difficulties involved. The list was to contain two elements: subjects, such as, presumably, the continental shelf; and issues, viz. specific questions which needed to be resolved, such as the limits of national jurisdiction over the sea-bed. The preparation of the list was nothing more than a procedural device designed to promote, and not to inhibit, the progress of the work. The subjects and issues would have to be formulated carefully in a sufficiently broad and flexible way so as to allow for full consideration of all views and the representation of all interests. At the same time, the drafting would have to be sufficiently definitive so as to avoid the possibility of needlessly re-opening questions which had been settled or to include matters which were extraneous to the discussion.

The list was to be "comprehensive" but not necessarily complete. The Sub-Committee should, of course, reach a conclusion, at a given point, as to whether the list was sufficiently comprehensive to warrant suspension of work on it and to commence drafting of the articles, on the understanding that it could return to the list from time to time as and when new items were proposed. In his delegation's view, the list should not be closed until the conference itself decided that it would be impracticable to deal with any more subjects or issues.

Mr. LEGANI (Uruguay) said that the delays and difficulties experienced in organizing the work of the Committee were perfectly understandable, since all delegations realized the importance of the objective to be attained and were therefore anxious to adopt the most effective procedures; and in the circumstances there was bound to be a stimulating and controversial discussion.

His delegation's views on the kind of international régime to be established had already been expressed in the First Committee during the General Assembly's twenty-fifth session.[3] From the numerous reports and working papers before the Committee and competent Sub-Committee and also from views expressed in the Committee and elsewhere, it appeared that many of the different theories put forward with respect to the rules governing the international régime and the related machinery were united in advocating a single and centralized machinery to regulate and manage the sea-bed and the ocean floor beyond the limits of national jurisdiction on behalf and for the benefit of the international community. As was clear from the expressions used, such as "the good of mankind", "the common interest of mankind" and the "common heritage of mankind",[4] all those theories were based on principles designed for universal application.

Uruguay, on the other hand, would prefer an international régime comprising regional or sub-regional systems co-ordinated on world scale, in accordance with principles of common interest. That approach was based on the realities of the international situation and could even be said to reflect the practices adopted by the United Nations. It was, in fact, in keeping with the principle of geographical distribution which had been established in the Charter for the Security Council and later extended to other United Nations bodies. If the world community was to be organized as a single whole, diversity should not be abolished but respected, since it was precisely by encouraging the major regions or geographical areas to make their own contributions - reflecting their own history, culture, social and political background - that the United Nations was able to gain in strength. The Charter itself referred to regional arrangements that were "consistent with the purposes and principles of the United Nations" (Art.52, para.1).

His delegation was convinced that, in the exploration and exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction, regional and sub-regional organizations would help to ensure that such activities were undertaken for the

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3/ See A/C.1/PV.1773

4/ See Official Records of the General Assembly, Twenty-fourth session, Supplement No. 22 (A/7622), Part Two, paras. 20-22.

benefit of mankind as a whole. Moreover, regionalization of the régime and the machinery would make it easier to produce the most satisfactory solutions to problems affecting the interests of each individual region. Each of the regional structures would be in a better position than a single centralized organization to meet the particular needs and requirements of its own region or geographical area. The system could be given the necessary unity and efficiency by establishing institutional links to co-ordinate the activities of the proposed regional organs with those of a central organ.

Such links would make it possible to establish joint investment programmes, to co-ordinate research and operational projects, to exchange and disseminate scientific and technical knowledge, to adopt measures to combat contamination of the marine environment, and to extend to the developing and other countries the benefits derived from the exploitation of the sea-bed and ocean floor.

At the Latin American Meeting on Aspects of the Law of the Sea (Lima, August 1970), the Government of Uruguay had therefore made a proposal, which had been taken into account in resolution 1 of the meeting (A/AC.138/28, page 4), to the effect that, in considering the most appropriate structure for the international machinery, it was essential also to consider whether regional or sub-regional systems should be established. His Government had since submitted that proposal to the First Committee during the twenty-fifth session of the General Assembly, and it still maintained it.

In Latin America, regional organization of the exploration and exploitation of the sea-bed and ocean floor would be facilitated by the many close links which existed between the different countries of the region, and also by the fact that most of them shared the same principles and objectives in regard to maritime problems. Latin America had long since adopted a regional approach to maritime matters, since rights and interests in Latin American waters had at one time been shared between Spain and Portugal, and the other maritime nations of Europe had recognized that such rights and interests belonged exclusively to those two Powers.

The notion of "American maritime zone" had re-emerged at the first Meeting of Consultation of Ministers of Foreign Affairs at Panama City in 1939, when the American republics had agreed implicitly to fix the limit of the "American continental sea" at 300 sea miles from their coasts, the waters within that limit being considered as an indispensible security zone for the continent.

Subsequently, the Inter-American Treaty of Reciprocal Assistance (Rio de Janeiro, 1947) had recognized a continental maritime area which was even larger, though still not as extensive as the zone of application of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Mexico City, 1967).

In the light of those precedents, regional organization of the exploitation of the sea-bed over a sufficiently large area of the high seas off the coasts of the American hemisphere would be in keeping with the security requirements which had led to the delimitation of the areas concerned.

His delegation considered that the resources obtained by the exploitation of the American sea-bed should - without prejudice to the share to be allocated for the common interests and requirements of all peoples - be used mainly for promoting the economic, social and cultural development of the Latin American peoples.

The other major geographical areas or regions of the world could each establish regional organizations for the exploitation of the sea-bed and the ocean floor, depending on their own requirements and interests.

If the system were regionalized as his delegation proposed, it would be more flexible and would provide a better guarantee of effective international co-operation at the regional and inter-regional levels. It would universalize the exploitation of the sea-bed for the benefit of mankind as a whole, and would at the same time draw its strength from the very diversity of the major regions and geographical areas.

Mr. NUR ELMI (Somalia) said that, as a newly appointed member of the Committee, his country which had the longest coastline in Africa, attached great importance to questions relating to the sea-bed and the ocean floor beyond the limits of national jurisdiction, particularly questions relating to the unexplored wealth of the ocean, which should be exploited for the benefit of mankind as a whole in accordance with the Declaration of Principles adopted by the General Assembly [resolution 2749 (XXV)]. His country regarded the resources of the sea-bed as a means of overcoming the problems of its economic growth. But many developing countries looked upon sea-bed exploration activities with a certain degree of suspicion, caused by the attitude of the technologically advanced nations, which placed their selfish interests before the need for development aid. The attitude of the advanced countries was all the more regrettable in view of the ever-widening disparity between them and the developing countries - a disparity which aggravated international tension, caused revolutions and created dissensions between countries which had been privileged to impose their will on others by virtue of their economic strength, and those smaller countries which were determined at all cost to preserve their political independence and national sovereignty. In that connexion, his country welcomed most warmly the recent conclusion of an international treaty to protect the sea-bed from nuclear contamination.

Implementation of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof beyond the Limits of National Jurisdiction - which would be quite possible if States looked beyond their selfish national interests to the interests of the world as a whole - would be one of the most precious achievements of mankind.

Mr. ECONOMIDIS (Greece) said that his delegation, which was participating for the first time in the Committee's work, fully realized that the Committee's terms of reference - which related mainly to the exploitation of the sea-bed and the ocean floor, and also to certain related questions of the law of the sea - presented delegations with an extremely difficult task. The questions which the Committee had to consider were new, complex and very important or even vital. To enable the Committee to complete its work successfully, members would have to display patience, moderation and realism in the search for solutions which would give satisfaction both to individual States and to the international community as a whole.

Firstly, with regard to the establishment of the outer limit of the continental shelf, the best course - for practical considerations, as well as reasons of equity - would be to proceed from the basis of existing international law, including the 1958 Geneva Convention on the Law of the Sea, and to adopt a realistic solution based not necessarily on the depth of the ocean, but rather on the width from the limit of the territorial sea.

Secondly, his delegation was attracted by the United States proposal to establish - under an international mandate - an intermediate area between the continental shelf and the ocean depths (see A/AC.138/22). That constructive proposal might reconcile the interests of the coastal States - which would inevitably stand to lose by the establishment of a definite limit for the continental shelf - and the interests of other States which were bound to gain thereby. It deserved careful study and should serve as a basis for the Committee's work.

Thirdly, the Committee should also consider the question of objects of archeological and historical value on the sea-bed, so that appropriate steps could be taken to discover, protect and recalim them.

Finally, his delegation wished to emphazie that no sea-bed activities should be allowed to interfere in any way with other activities exercised in the marine environment in accordance with international law, particularly, navigation and fishing on the high seas. On matters relating to the law of the sea, he wished to urge extreme caution, in order to avoid undermining prematurely the long-accepted positive solutions of international law.

The meeting rose at 4.30 p.m.

SUMMARY RECORD OF THE FORTY-EIGHTH MEETING

Held on Tuesday, 16 March 1971, at 10.55 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. KRISHNAN (India) said that his delegation felt that the period of informal consultations had been usefully spent in dispelling suspicions and in laying the foundation for the Committee's substantive work: the elaboration of an international régime for the area and the resources of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, and the formulation of draft articles, where appropriate, on a broad range of issues pertaining to the law of the sea.

The adoption by the General Assembly of the expression "ocean space" in resolution 2750 C(XV) was an act of great political wisdom and a recognition that the issues involved were closely interrelated and needed to be considered as a whole against the background of present-day political and economic realities, scientific development and technical advances which had accentuated the need for a progressive development of the law of the sea in the framework of close international co-operation.

The approach to the development of the law should be positive, so as to build a new law where none existed and remedy the inadequacies and inconsistencies of the existing law. It should also be constructive, there was no intention to destroy everything that had been achieved by the international community so far.

With regard to the organization of work, it was a good augury for the future that it had been possible to reach agreement that the complex issues entrusted to the Committee should be handled through three sub-committees. General agreement had been reached on certain aspects of the mandate of the three sub-committees but there were some questions on which no full agreement had been reached. One of those questions related to the priority to be attached to the international régime.

The developing countries considered that the discussions relating to the international régime should enjoy priority. There were several points of principle relating to the régime and machinery which needed to be further considered and clarified. Broad agreement should be reached relating to some essential elements of the régime including machinery. These would include, to mention a few examples, the precise nature of the control to be exercised by the international machinery over the area and its resources, the powers and functions of the international machinery and the nature of the decision-making process within that machinery, the basis of benefit sharing, the attenuation of adverse economic consequences resulting from exploitation of resources in the international area, and other related questions. It was not difficult to

envisage that through the process of discussion, debate and compromise, agreement would be reached on these and similar subjects in the first stage.

The priority attached to the régime and machinery did not preclude any delegation from referring, where relevant, to the question of delimitation of sea-bed boundaries in the course of the first stage.

The second question on which no full agreement had been reached related to the manner in which the question of limits would be treated. In that connexion, developing countries would benefit from a strong international régime. The international machinery should have comprehensive powers as administrator of the "common heritage of mankind"; it should have jurisdiction over an area whose depth and resources permitted profitable exploitation.

The exploitation of the resources of the international area should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal. Developing countries would have to consider carefully whether their long-term interest in maximising their shares in the wealth of the sea-bed would best be served by claiming large national areas or by accepting moderate limits to national areas and placing the responsibility for regulating exploitation of the sea-bed on international machinery with comprehensive powers. The special interests of coastal States in the living resources in certain areas of the high seas adjacent to their territorial sea would need to be protected.

The developing countries believed that there should be unit in the negotiations relating to ocean space and the majority of them therefore preferred the approach of a comprehensive conference rather than a conference for specific purposes. They felt that the question of sea-bed limits could without disadvantage be discussed in all the sub-committees as and when relevant.

The main Committee should reserve for itself the right to take a final decision on the question of the precise definition of the area of the sea-bed limits. Considering, however, its relationship with that of limits for other areas, the question should be allocated to Sub-Committee II for making the necessary recommendations, on the understanding that its consideration should await progress on the essential elements of the sea-bed régime in Sub-Committee I.

On the question of the preparation of a list of subjects and issues, his delegation recognized that a list could not be completed there and then. New problems could arise in the course of their work and lead to the addition of new subjects; a pragmatic approach was therefore needed.

His delegation believed that Sub-Committee II, which was the law of the sea sub-committee, should start with an initial list and then proceed to formulate draft articles on matters on which there was agreement; that understanding was reflected in the agreement reached on the organization of work (see 45th meeting).

To conclude his preliminary statement, which should not be taken as expressing the definitive view of his delegation, he would emphasize that his aim had only been to outline some of the main problems involved. It was realized by all that the question of delimitation was crucial to the nature of the proposed international machinery and that no hasty decisions should therefore be taken. It was in that sense that his delegation believed that the final determination of limits could be left to the later stages of their work.

His delegation believed that certain confidence - building measures were necessary if the subjects were to be approached on a stage-by-stage basis. It hoped that such confidence would be built up in the Committee's discussions at the present and future sessions.

Mr. ZEGERS (Chile) said that, following the long and arduous negotiations on the organization of work, his delegation remained optimistic. A structure had now been established for the task ahead in the forthcoming years and his delegation pledged its fullest co-operation in the accomplishment of that task.

The elaboration of an international régime and the preparation of the future conference on the law of the sea constituted in reality a single task, the underlying philosophy of which was embodied in resolution 2750 C(XXV), which stated "that the problems of ocean space are closely interrelated and need to be considered as a whole". The future conference should therefore be broad in scope, but that did not mean that an attempt should be made to rewrite the whole of the law of the sea or that the importance of international and regional custom should be ignored. The broad scope of the conference followed from the concept of the progressive development of international law which the United Nations was called upon to promote in accordance with its Charter. The new realities resulting from scientific development and rapid technological advances and the emergence of new countries rendered progressive development essential.

The world had changed and could no longer be satisfied with rules of law which had emerged from the practice of a few European countries in the nineteenth century. Those rules, which provided for unrestricted freedom of the high seas and limited jurisdiction for the coastal State, had now lost all validity. It had been demonstrated that the

resources of the oceans were not inexhaustible and that their vast expanses of water could be contaminated; both seas and beaches were now exposed to progressive pollution.

At the same time, the developing countries, whose ranks had been swollen by the attainment of independence by over 40 countries since the Second Conference on the Law of the Sea in 1960, had become aware not only of their poverty but also of the immense potential of their resources. Cases such as that of Peru, which had become the foremost fishing nation of the world, showed that coastal States had an indisputable right to the resources in the vicinity of their coasts. There was an inseparable link between the land, man and the sea, between economic development and the vast resources of the ocean.

A glance at the world map showed that the longest coasts, and thus the largest reserves of marine natural resources, were to be found in Africa, Asia and Latin America, in other words, in the developing countries, and those resources were located mainly in the vicinity of the coasts. For the overwhelming majority of the peoples and States of the international community, the "status quo" was unsatisfactory. The peoples of the Third World had awakened to the realities of the sea and had proved their creative capacity and their strength by asserting the revolutionary concept that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction constituted the "common heritage of mankind".

What was needed now was to reconcile the enduring and paramount principles of international law with the new realities. A balance would have to be struck between the old and the new. No one denied the validity of international custom, but custom must be adapted and supplemented to take account of changing realities. For example, except on a few points, there was no intention to reopen the question of the régime of the territorial sea or that of the continental shelf. The solutions to be adopted would have to take into account regional custom as expressed in such important agreements as those governing fisheries in the North Sea, the Baltic, the Adriatic and the Indian Ocean. Regional customary law was especially important in Latin America, where it had been developed and given practical application for over fifty years so that it now contained all the ingredients of international custom. The rules of regional custom were also applied in other parts of the world, such as south-east Asia, Oceania and Africa.

The forthcoming conference on the law of the sea would have to be wide in scope and comprehensive in purpose; it would have to reconcile principles with reality and adapt and supplement the existing law, retaining whatever was still valid in international and regional custom. In shaping the international régime, special attention would have to be paid to the new phenomenon of pollution, to the development of scientific research and to the growing dependence of the coastal States on the resources adjacent to their coasts, taking particular account of the new problems which would rightly be raised by the newly independent countries.

With regard to the nature and scope of the conference, the problem inevitably arose of the preparation of the list of subjects to be dealt with by the Committee, as referred to in operative paragraph 6 of resolution 2750 C(XXV), which constituted their terms of reference. It was clear from the resolution that the Committee had to prepare a list of subjects and issues for the preparatory phase, and that the definitive agenda for the conference would be adopted by the General Assembly at its twenty-seventh session. That had been explained by the Canadian representative, on behalf of the sponsors of the resolution, in the First Committee of the General Assembly. The list of subjects was thus a fundamental task, as had been emphasized by the representatives of India, El Salvador, Kenya, Canada and other sponsors of the resolution. Discussion and preparation of the list was one of the Committee's most important tasks because it would define the shape of the future conference.

With regard to the suggestion that the Committee might prepare draft treaty articles before completing the list, if members would look at operative paragraph 2 of the resolution, it would seem that the Committee might have to rewrite the whole law of the sea and to draft articles to cover its entire scope. The allocation of new and artificial priorities which would be necessary if articles were to be drafted did not seem consistent with the Committee's task of preparing for a comprehensive Conference.

The list of subjects should be discussed on the basis of operative paragraph 2 of the resolution. The Committee should be very clear what it intended to do since the list of subjects would provide the basis for the Conference agenda. It was logical therefore that the list of subjects should be prepared before the drafting of the articles and the establishment of working groups, at least in Sub-Committee II. It had been agreed in connexion with the agreement reached on organization of work (45th meeting) that Sub-Committee II could decide to start on the stage leading to the drafting of articles before completing the list, but that was a matter related to the problem of

priorities, which depended on the Conference material being sufficiently prepared to be dealt with comprehensively. As for the suggestion that the list of subjects might delay the Sub-Committee's work, in the first place that was probably the most important part of its work; and secondly, there was nothing to prevent the list being prepared rapidly, as was warranted by its importance and the requirements of the preparatory work.

If the Committee worked on the basis of a comprehensive Conference and of the idea of the progressive development of international law proclaimed by the United Nations Charter, it would have to agree that it was the less mature subjects that should be given priority. That was particularly true of the subject of the international régime for the sea-bed beyond the limits of international jurisdiction, which as a new subject had been given priority in resolutions 2340 (XXII) and 2467 A (XXIII). The subject of the limits of the international area had been deliberately excluded from the terms of reference of the Ad Hoc Committee and the Committee, because the General Assembly had regarded it as an old subject which was not relevant to the question of the régime.

The international régime for the sea-bed was not only a new subject, but was considered of decisive importance for all mankind and particularly for the developing countries. The seas and oceans covered about two-thirds of the globe and contained vast resources. That was why the idea of the common heritage of mankind - which meant the participation of all, particularly the weaker countries, in administration and in the resources - had been formulated by the Asian, African and Latin American delegations. Priority for the régime had been reaffirmed in resolution 2574 A (XXIV). It had been confirmed by the majority of replies to the Secretary-General and by important international meetings such as those of Lusaka, Lima and more recently Colombo. It had also been reaffirmed in resolution 2750 C (XXV). That priority covered the terms of reference of Sub-Committee I.

There were other less mature items which might be discussed by Sub-Committee III, such as pollution of the seas, scientific research, peaceful uses of the sea. Those subjects which could be given priority should include the special rights of coastal States, including exclusive or preferential economic rights over the areas adjacent to their coasts, such as special facilities concerning administration, pollution, scientific research and in certain cases safety. Those matters were covered by operative paragraph 2 of the resolution.

The problem of the limits of ocean space was, in political and economic terms, the problem of the rights of the coastal State. Negotiating limits was fundamentally negotiating resources and for the coastal State, that meant negotiating its patrimonial sea, the resources adjacent to its coasts, indissolubly linked to its territory. Those resources were found chiefly along the coasts of the developing world - Africa, Asia and Latin America. It was of course a subject which interested the great maritime Powers, the zealous defenders of the so-called "freedom of the seas" but legally and politically it was an old subject, which had already been dealt with at the Conference for the Codification of International Law (The Hague, 1930) and the United Nations Conferences on the Law of the Sea (Geneva, 1958 and 1960). It would clearly have to be discussed, but mainly as part of the study of the rights and interests of coastal States and in connexion with the régime of the sea-bed beyond the limits of national jurisdiction.

No agreement had been reached on the definition of the international zone of the sea-bed. He had always maintained that the subject should be discussed in Sub-Committee II in conjunction with the question of the limits of the other ocean spaces and probably with other related subjects. Legally, it would be difficult, if not impossible, to separate the limits of the international zone of the sea-bed from the régime and limits of the continental shelf which would be discussed in Sub-Committee II. Nor would it be easy or logical to separate it from the question of the breadth of the territorial sea, which also came within the terms of reference of Sub-Committee II. Politically, limits were a matter of the jurisdiction and resources of coastal States, and no State would be prepared to negotiate its seas piecemeal or accept a solution on the sea-bed without knowing what would happen in the seas.

Regarding the suggestion that it was impossible to consider the régime of the sea-bed without referring to limits, he said that no international régime - whether of the high seas, of fishing, of the continental shelf or of outer space - had precise or uniform limits. Yet they had all been the subject of multilateral and bilateral treaties. There was nothing to prevent discussion of the subject, but the drafting of recommendations and negotiations on the drafting of articles should be carried out in conjunction with other subjects in Sub-Committee II. Moreover, it was important to preserve the priority accorded to the régime of the sea-bed. If both subjects were assigned to Sub-Committee I, they would be dealt with on the same level.

The question of the scope and unity of the Conference and its preparatory work clearly belonged to the main Committee which was responsible for co-ordinating the work. It should be a second forum for all proposals, and should discuss all aspects of the preparatory work and give final approval to all recommendations to the General Assembly. That practice had been followed at the 1958 and 1960 Conferences on the Law of the Sea.

It would be for the officers of the main Committee and the General Committee of the officers of all the sub-committees to co-ordinate the work and decide procedure, consulting the main Committee where necessary. That was the only way to ensure unity and efficiency of work.

Chile, a maritime country with more than 2,500 miles of coastline, had the second largest fishing industry in Latin America. The importance it attached to the sea was clearly shown in its national and international policy and in its adherence to the principles and conventions of Latin-American regional law. The President of Chile had recently announced the creation of a Department of State for Sea Affairs.

It was important for every delegation to explain the interests of its country and region, particularly where they were vital interests, in order to facilitate negotiations. Solutions should be sought which would harmonize interests and take into particular account the position of States more independent of the ocean as well as differences in economic development. They should also respect international and regional custom, since there could be no international law if any of the large regions of the world was to be excluded.

The Chilean delegation was confident that the dialogue between the great and medium Powers and the developing countries, which had brought about the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the resolution containing the Committee's terms of reference, would be maintained, and that the great maritime Powers would be receptive to the new realities of the contemporary world and the particular needs and interests of the developing countries.

Mr. PÉREZ HERNÁNDEZ (Spain) said that, as had been pointed out in General Assembly resolution 2750 C (XXV), the political and economic realities, scientific development and rapid technological advances of the last decade had accentuated the need for progressive development of the law of the sea on the basis of the results achieved at Geneva in 1958. At the same time, it must be admitted, as stated in the same resolution, that many of the present States Members of the United Nations had not taken part in the previous United Nations conferences of the law of the sea. That was all

the more reason why the present general debate should be an occasion for all the States represented in the Committee to contribute to the progressive development of the law of the sea. In that task, it would, of course, be necessary to take into account the interests and needs of all States, whether coastal or land-locked, and in particular the interests and needs of the developing countries.

In the opinion of his delegation, the general debate should serve to provide a greater awareness of the attitudes and needs of all States with respect to the great problems of the law of the sea. Such an awareness would represent the first step towards finding just solutions to the problems involved. Only when those interests and needs had been properly clarified and compared would it be appropriate to start on the difficult task of negotiations. The difficulties would be great, but those very difficulties should induce the Committee to adopt a general attitude which he might describe as one of loyal co-operation and prudence at the same time. Such co-operation would require that representatives should be prepared to understand opposing positions, however far removed they might seem from their own, and to adjust their own needs and interests to those of the great majority of States which expected so much from that "last frontier" of the sea-bed and ocean floor. Prudence, on the other hand, should lead the Committee to shun hasty solutions and to rely on a consensus when adopting decisions.

With regard to the questions dealt with in operative paragraph 2 of General Assembly resolution 2750 C(XXV), his delegation felt that, just as water always finds its own level, a satisfactory level for the two major groups of subjects would be achieved only when the level of the more recent group - the one relating to the sea-bed and ocean floor - was raised; that group should therefore receive priority attention.

The position of his delegation was based on three fundamental principles: development, liberty and security. The principle of the economic and social development of peoples determined his delegation's attitude to a number of very important questions, such as the international régimes of the sea-bed and the ocean floor, the continental shelf and the fishing and conservation of the living resources of the high seas. All solutions for the problems of the law of the sea should be worked out in conformity with that principle of the economic and social development of peoples.

It seemed only proper that the international régime of the sea-bed and the ocean floor and the subsoil thereof should be drawn up on the firm basis of General Assembly resolution 2749 (XXV), according to which those areas should be used for the economic development of peoples, since they were the common heritage of mankind and should be exploited for the benefit of all, with particular regard to the interest and needs of the developing countries.

The principle of economic development was equally decisive with respect to the régime of the continental shelf. It was necessary to regulate more precisely the exploitation of all its resources by eliminating existing discrepancies and basically what the Committee had to do was to establish an acceptable criterion for delimiting the continental shelf beyond the zone of the territorial sea. In the opinion of his delegation, that criterion ought to ensure to all States, especially the developing States, an equitable share on the basis of the average extension of existing continental shelves. The exploitation of the resources of the continental shelf under the sovereignty of the coastal State, was a present reality, not just a future possibility, which could contribute decisively to the economic and social development of States.

With respect to fishing and the conservation of the living resources of the high seas, in addition to the needs resulting from economic development, there were certain geographical and biological criteria which made it necessary to take account of the preferential rights of coastal States in the waters adjacent to their coasts. Everybody was aware that that question was extremely difficult because the conflict of the interests involved was particularly acute. It was, however, of major importance for the developing countries, whose interests and needs should be satisfied on a just basis. The Committee should try to find a general solution which would satisfy all parties concerned with fishing, by making an equitable adjustment of their respective interests and needs. It should start from a realistic position, which would take that conflict of interests and needs duly into account and would not be influenced exclusively by either of the opposing arguments.

Freedom to fish on the high seas, which was usually considered a principle favouring the interests of the international community as a whole, could not be maintained in absolute terms. Contrary to what had been believed in the past, the living resources of the high seas were not inexhaustible; it was necessary to take measures for their conservation. Moreover, it should be borne in mind that the inequality in technological development was likely to widen the gulf between developed and developing countries,

since the freedom of fishing, although presumably favourable to all, actually gave an advantage to the technologically more advanced countries, which were the most developed countries.

Those considerations, which were based on the imperatives of international social justice, were fully supported by his delegation, in spite of the fact that, at the present time, Spain ranked among the first five fishing countries of the world. Moreover, his delegation shared the idea that there was a very close link of a geographical, economic and social character between coastal populations and other marine environments, and that that link gave coastal States an inherent right to the exploration, conservation and exploitation of the natural resources of the high seas adjacent to their coasts. In his opinion, that inherent right was fully justified when it was exercised in accordance with reasonable and equitable criteria within the framework of a general solution for the problem, and when its essential purpose was the economic and social development of coastal populations and the raising of their standard of living. For that reason, he believed that coastal States were entitled to establish special maritime jurisdictions with a view to the conservation, regulation, and exploitation of the living resources of the seas adjacent to their coasts. In adopting such measures, however, they should take fully into account, through negotiations, the interests of third States in securing a reasonable share of the fishing thus codified and with due regard for the preferential rights of the developing countries.

The principle of the freedom of the seas - particularly with respect to the freedom of peaceful navigation - was a valuable principle for the international community. The freedom of navigation, traditionally recognized by international law in the sphere of peaceful navigation, was beneficial to all States, whether coastal or land-locked, developed or developing. Spain, which since the time of Menchaca and Vitoria, had contributed to the ideas and deeds by which that principle had been forged, hoped that it would emerge from the Committee's labours stronger than ever and that it would be specified in such a way that the freedom of peaceful navigation would serve the needs of the developing countries and not remain a purely formal right.

At the same time, he hoped that the present discussions would also strengthen the third of the principles he had mentioned, namely, the principle of the security of coastal and land-locked States against non-peaceful use of the seas. In that connexion, the Committee should bear in mind that the work it was engaged on was the progressive

development of the law of the sea, the final purpose of which, in confirmity with the principles of the United Nations Charter, was to bring peace and security in international relations.

With respect to the régime of the territorial sea, the idea of promoting international security found direct application in connexion with the problem of the breadth of the territorial sea and with that of navigation within territorial waters. If the problem of the territorial sea was to be solved in a general way by confirming the twelve-mile rule, that would be acceptable to his delegation, since that breadth offered the best guarantee for the security of coastal States. Both in the past - going back as far as the year 1760 - and in the present, Spain had maintained a limit of six miles for its territorial sea, in accordance with a fairly widespread attitude among Mediterranean coastal States. Although there were no pressing reasons for doing so, his delegation might consider increasing that limit. It could see no justification whatsoever for any attempt to change the traditional régime of the territorial sea with regard to innocent passage through its waters which might prejudice the peace, order or security of the coastal states. As his country's Minister of Foreign Affairs had recently said, the traditional rules on the subject, as set forth in the Convention on the Territorial Sea and the Contiguous Zone (Geneva, 1958), constituted a minimum and indispensable safeguard. That traditional safeguard of coastal States had become more urgently necessary with the growing demonstrations of naval power in certain waters and with technological development, since warships, nuclear-powered vessels, giant tankers and ships carrying dangerous goods represented a potential threat to the peace, good order and security of the coastal States. After all, to go beyond the present régime would amount to requesting freedom of non-innocent passage.

His delegation, therefore, considered it necessary to amplify rather than to reduce the security measures recognized by international law. If it did otherwise, the Committee would not be accomplishing a work of peace in its development of the rules of the law of the sea, but would be helping to aggravate the existing tensions and conflicts in certain areas by serving the political and strategic interests of the major powers.

The principle of security also determined his delegation's attitude to the problem of preserving the marine environment, and especially that of preventing pollution. Spain, which was situated at the crossing of two of the most important sea lanes of the world, was fully aware of the seriousness of that problem, which was one of the most dramatic confronting mankind today. His delegation considered, therefore, that the Committee should study those problems and draw up a set of draft articles which would enable coastal States to take steps to prevent the various types of pollution of the marine environment and which would also solve the problems of the legal responsibility to which such pollution gave rise.

The meeting rose at 12.30 p.m.

SUMMARY RECORD OF THE FORTY-NINTH MEETING

Held on Tuesday, 16 March 1971, at 3.30 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. ANDERSEN (Iceland) said he thought it would be very useful, at the outset of the Committee's deliberations on the preparation of the forthcoming Conference on the Law of the Sea, if delegations were to indicate what issues they considered the most important, so that the Committee could ascertain the degree of possible accomplishment.

In the Icelandic Government's view, it was essential above all to complete the task of the codification and progressive development of the law of the sea begun by the General Assembly in 1949. Much had been accomplished as a result of the work of the International Law Commission, the Sixth Committee of the General Assembly, the United Nations International Technical Conference on the Conservation of the Living Resources of the Sea (Rome, 1955) and the 1958 and 1960 Geneva Conferences on the Law of the Sea; but agreement had not been reached on the extent of the territorial sea, fishing limits and the international sea-bed régime, and those were still the main problems.

With regard to the international sea-bed régime, the Icelandic delegation thought that the work already accomplished by the Committee, the working papers before it and the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof beyond the Limits of National Jurisdiction (General Assembly resolution 2749 (XXV)) could provide a basis for future discussion

As to the extent of the territorial sea, Iceland considered that a solution should be sought on the basis which it and many other countries had advocated in 1958 and 1960 - namely that a relatively narrow territorial sea was acceptable, provided that the question of fishery limits was adequately dealt with.

The crux of the matter was the question of fishery limits, which should be dealt with in a realistic manner. It would not be solved by asserting that the concept of the freedom of the seas called for narrow fishery limits, and by branding the claims for extensive fishery limits as selfishness or national parochialism. That attitude belonged to the past, when the interests of nations fishing off the shores of other countries had been protected at the expense of those of the nations in whose waters the fishing was conducted. It should be remembered that many new States rightly considered that coastal fishing resources were part of the natural resources of the coastal nation; and that was, indeed the predominant view of the international community at the present time.

The Icelandic Government had already summarized its views on that subject in a communication addressed to the International Law Commission on 5 May 1952. In that communication it was pointed out that the territory of Iceland rested on a platform or continental shelf whose outlines followed those of the coast itself, whereupon the depths of the real high seas followed. On that platform were found invaluable fishing banks and spawning grounds upon whose preservation the survival of the Icelandic people depended. Iceland was itself barren and almost all necessities had to be imported and financed through the export of fisheries products. It could truly be said that the coastal fishing grounds were the conditio sine qua non for the Icelandic people, since they made the country habitable. It was for that reason that the Icelandic Government considered itself entitled, and indeed bound, to take all necessary steps on a unilateral basis to preserve those resources; and that was in fact what it was doing. It considered it was unrealistic that foreigners could be prevented from pumping oil from the continental shelf, but that they could not in the same manner be prevented from destroying other resources which were based on the same sea-bed. It did not maintain that the same rule should necessarily apply in all countries. It felt rather that each case should be studied separately and that the coastal State could, within a reasonable distance from its coast, determine the necessary measures for the protection of its coastal fisheries in view of economic, geographic, biological and other relevant considerations.[1/]

The Icelandic Government remained firmly convinced that each case should be decided on its merits by the coastal State itself. Application of that principle led to different results, certain States considering that a limit of 12 miles was adequate to protect their coastal fisheries, while others thought that their vital interests were not sufficiently protected with such a limit. The relevant local factors in Iceland would, generally speaking, coincide with the outer limits of the continental shelf or platform at a depth of 400 metres - which in some areas would take the limit to a distance of 60-70 miles from the shore. Other countries might consider that the protected zone should be even wider. It was for the coastal State to determine the limits on the basis of a realistic appraisal of local conditions. The Icelandic Law of 1948 concerning the continental shelf fisheries was based on that principle.

1/ Official Records of the General Assembly, Eighth Session, Supplement No. 9 (A/2456), annex II, sect. 9, paras. 2-3.

It had sometimes been said that the general maximum should be set at 12 miles and that more extensive claims should be dealt with on a regional basis through agreements between the countries concerned. In the view of the Icelandic Government, that was not a realistic approach. The real problem arose precisely when countries in a given region refused to give up their claims, and all wanted, for example, to fish off the coasts of one country in the region. It would neither be just nor equitable to leave it to the countries of the region to find a solution after a general limit had been fixed. Consequently, the general rule must include the solution of special cases.

The determination of fishery limits was also closely related to the general problems of conservation of the resources beyond those limits and of prevention of pollution and other damage to the marine environment as well as to the protection of scientific research. The problems of conservation of fish stocks and of protection of the environment were daily becoming more important. With modern techniques, it was possible that there would soon be factory ships equipped with electrical fishing devices, which would be capable of directing vast quantities of fish into a factory on board. Over-fishing had long been an imminent danger in Icelandic waters where resources, threatened after the Second World War, had been temporarily protected by the extension of the fishery limits. Moreover, the pollution problem had already reached proportions which could no longer be tolerated. The deliberate dumping of dangerous waste and poisons into the oceans, with fatal consequences for the living resources of the marine environment, could no longer be permitted. Such acts constituted a marked abuse of the freedom of the seas.

The specialized agencies, with their technical competence, should be able to help the future Preparatory Committee in its work. In view of the complex technical discussions to be held on fisheries, pollution etc., the Committee should consider requesting the FAO Department of Fisheries, UNESCO's Intergovernmental Oceanographic Commission (IOC) and IMCO, for example, to provide experts to assist the secretariat. The experts should be fully integrated into the secretariat, which would thus be strengthened and would be able to be of maximum service to the Committee. The list of national fishing limits established by FAO in 1969 should also be brought up to date.

The meeting rose at 3.50 p.m.

SUMMARY RECORD OF THE FIFTIETH MEETING

Held on Wednesday, 17 March, 1971, at 10.55 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. KOH (Singapore) said that, following the Committee's failure to reach agreement in New York on the organizational and procedural aspects of its work, his delegation had hoped that in the calmer atmosphere of Geneva it would prove possible to make rapid progress with the work in hand. Unfortunately, that hope had proved illusory, and after three weeks of procedural politics, the Committee seemed to have agreed only to disagree.

In his opinion, the first impediment to the Committee's progress had been the atmosphere of intense mutual suspicion which had surrounded its work. In such an atmosphere, delegations had been unwilling to make the mutual concessions without which no progress was possible. They seemed to have feared that any concession, even on what appeared to be an innocuous point of procedure, might later prove to be a trap from which they would be unable to extricate themselves. Maitland's remark that substantive law was secreted in the interstices of procedure would appear to have weighed heavily in the calculations of many delegations.

Mutual suspicion seemed to exist, in part, because delegations were uncertain about each other's motives. That in turn proceeded, at least in part, from the fact that most delegations had not disclosed their national self-interests in the matters which formed the mandate of the Committee. He therefore agreed with the representative of Chile who had argued that it would be desirable that each delegation should state clearly what its national self-interests were and relate them to the work of the Committee (48th meeting).

The second impediment had been the rule of consensus, which the Committee had adopted as the preferred mode of decision-making. Consensus was not, of course, the only way in which the Committee could reach decisions; what was more important was that for consensus, as a mode of decision-making, to work, all participants in that process had to share certain assumptions which usually remained inarticulate. Those assumptions were: first, that all participants shared a bona fide intention to seek agreement; secondly, that they would keep their minds open and be willing to listen to, and be influenced by, the arguments of others; and thirdly, that those who found themselves in a small minority on any question would be prepared to move towards accommodating the views of the overwhelming majority.

Unless those premises were accepted by all, the rule of consensus could become a weapon with which a determined minority could hold the majority to ransom. If that threatened to occur, the Committee must surely review the efficacy of the consensus rule, especially in its application to procedural questions.

A third impediment to progress during the first two weeks of the present session might have been the nature of the Committee's informal negotiating machinery. That machinery, which worked on several levels, was both cumbersome and repetitive. He would therefore urge the Chairman and his colleagues in the General Committee to give some consideration to the possibility of designing a more practical and efficient negotiating machinery to replace or supplement the present one. Perhaps the General Committee itself, which was a de facto steering committee, could play a constructive role in the evolution of the consensus.

With regard to the three outstanding procedural and organizational questions confronting the Committee, the first was the contentious one of whether priority should be accorded, in the Committee's work, to the establishment of an international régime, including international machinery and economic implications. The discussion of that question had been confused, due in part to semantic difficulties. When speaking of according priority to those questions, it was necessary to distinguish carefully between the three different meanings of the term "priority". It could mean either priority in the discussion of topics, or it could mean priority in the making of recommendations by a subordinate committee to the Main Committee, or it could mean priority in the adoption of draft treaty articles by the Main Committee itself.

His own delegation's approach to that question was no different from those of the delegations of Ceylon and India. It was not opposed to granting priority to the discussion of the establishment of an international régime, including international machinery and economic implications, provided delegates were free to raise the question of the limits of national jurisdiction over the sea-bed and ocean floor whenever that was relevant to the discussion of the régime. Nor was it opposed to the suggestion that an agreement in principle on that international régime, to be embodied in a memorandum of understanding, should constitute a prerequisite for any definitive decisions on the question of the limits of national jurisdiction. It would, however, insist that any draft treaty on the international régime which was approved by the Main Committee should incorporate a provision or provisions on the precise definition of the area of the sea-bed and ocean floor to which that régime would apply.

The Asian members of the Committee had adopted a formulation on that point which might be of interest to other members of the Committee, and which read as follows: "It is envisaged that the basis of discussion in Sub-Committee I will be draft treaty articles which will deal with the international régime, including international machinery and economic implications as a whole, and draft amendments thereto. In the discussion, priority may be given to the question of the international régime, including international machinery and economic implications, but delegations may raise questions pertaining to limits when these are relevant to the discussion of the former question. Agreement in principle on the international régime, including international machinery and economic implications, to be embodied in a memorandum of understanding, shall be required before any decision is arrived at on the question of limits. It shall, however, be understood that the final outcome of the deliberations of the Sea-bed Committee shall take the form of a draft treaty dealing with all questions pertaining to the sea-bed, including limits and economic implications of exploitation as a composite whole".

The second outstanding procedural question was which body should be empowered to make recommendations on the precise definition of the area of the sea-bed and ocean floor beyond the limits of national jurisdiction. Logically, the answer to that question depended on the mandate of the sub-committees to which that question was most closely related. On the one hand, there was a very close relationship between that question and the mandate of Sub-Committee I, since it would be meaningless to discuss the international régime, especially the economic implications of the exploitation of the resources of the sea-bed and ocean floor and the sub-soil thereof, in vacuo; it was essential to have some conception of the area, and the resources therein, to which the international régime would apply. On the other hand, there was also an undeniable relationship between the sea-bed limit and the continental shelf limit.

In view of those facts, it would seem most logical to adopt one of the following two alternative solutions. The first would be to require Sub-Committees I and II to meet jointly, under the chairmanship of the Chairman of the main Committee and to consider and make recommendations on the limits of the continental shelf and of the sea-bed and ocean floor. The second would be to vest the power of making recommendations on that question in the Main Committee itself, as the Chairman had suggested. Either of those solutions would be more logical than giving the power of making recommendations on the question to either Sub-Committee I exclusively or to Sub-Committee II exclusively,

since it was impossible to say whether the question was more closely related to the international régime or to the limits of national jurisdiction over the continental shelf. Any assertions in favour of one view or another were necessarily arbitrary.

The third outstanding procedural question pertained to the mandate of Sub-Committee II: namely, at what stage in the preparation of a comprehensive list of subjects and issues relating to the law of the sea should that Committee embark on the exercise of drafting treaty articles? It was reasonably clear that the Sub-Committee should not embark on the drafting of articles when it had only one or two subjects or issues on its list. On the other hand, it would be wholly unreasonable to delay the drafting of articles until the list had been completed. In the final analysis, what was at issue was the question of confidence. Delegations appeared to have no confidence in each other's good faith and therefore insisted, on the one side, that everything be spelled out in clear and precise terms, and on the other side, that everything be left vague and ambiguous. With a modicum of mutual trust and confidence, it should be possible to settle for some such an elastic criterion as "a substantial list", but without that mutual trust and confidence he feared that no agreement would be possible.

Concerning the work of the Main Committee, first, his delegation would like to see it proceed steadily towards the convening of a conference in 1973, if the preparatory work could be completed by that time, and the adoption by the conference of conventions on all the subjects entrusted to it. In pursuance of those objectives, his delegation would oppose any attempts to delay or obstruct the work of the Main Committee. Secondly, his delegation envisaged the enterprise in which the Committee was engaged as the construction of a new and equitable international order to govern man's activities in ocean space. In that enterprise, it was necessary to avoid a sectarian approach, since, if the new international order was to be both equitable and viable, it must take into account the legitimate interests of all groups of countries.

The statements made by delegations during the general debate might lead anyone to conclude that the only group of countries whose interests were at stake was the coastal States, and that the only dispute was between the developed coastal States and the underdeveloped coastal States. Both conclusions were, of course, false; the truth was that there was no homogeneity of interest on those questions, either in the group of developed countries or in the group of underdeveloped countries.

Logically, it was possible to divide the countries of the world into no fewer than nine interest groups. First, there were the coastal States which had extensive

continental shelves; secondly, there were the coastal States which had little or no continental shelf, but fronted on the open sea; thirdly, there were the land-locked States; fourthly, there were the shelf-locked States; fifthly, there were the coastal States whose economies were dependent on fishing in the waters adjacent to their coastline; sixthly, there were the States whose economies were dependent on liquid or hard minerals which had been found in the sea-bed and ocean floor and commercially exploited, or were likely to be found therein and commercially exploited in the future; seventhly, there were the archipelago States with a special interest in the definition of the limit of the territorial sea; eighthly, there was the group of developed maritime States; and lastly, there was a group of maritime States which possessed an underwater technology. It should at once be obvious that those nine groups of interests were not mutually exclusive and that a State might belong simultaneously to several groups. It should also be clear that developing countries did not share a uniformity of interests but possessed a diversity of interest. Thus, developing land-locked States and States without any continental shelf shared an affinity of interests, but did not share the same interests either with developing coastal States with extensive areas of continental shelf, or with developing coastal States with limited continental shelves but which fronted on the open sea.

On the basis of that analysis, he felt that the unity of the Group of 77 would have to be based on recognition of the diversity of interests within the group, and not on any false unity of interests. And just as developed coastal States should not presume to speak for developing coastal States, so also the latter should not presume to speak for land-locked developing States or States without any continental shelf; the representatives of those countries should be allowed to speak for themselves.

As the representative of a developing country which had no continental shelf, he wished to state that Singapore's primary self-interest was to advance and protect its inherited rights. The Declaration of Principles Governing the Sea-Bed and the Ocean Floor had proclaimed that the sea-bed and the ocean floor and the subsoil thereof were the common heritage of mankind. As a small part of mankind, therefore, his country had a claim to that heritage, and that claim, like the claim of other developing countries in the same position, was entirely dependent on the success or failure of the Committee's present endeavours. For if those endeavours should fail, it was the land-locked countries and those without any continental shelf which would lose their inheritance. Developing coastal States with extensive continental shelf areas, and those with limited shelves

but which fronted on the open sea, had the option of making extensive unilateral claims to the sea-bed and ocean floor. While they might not have the technological know-how to exploit the resources of that area, they could at least benefit from granting leases and concessions to foreign corporations of developed countries. The land-locked countries and those without any continental shelf had no such option.

It also followed from the above premises that the value of mankind's heritage must necessarily depend on the extent of the international area of the sea-bed and ocean floor, the resources therein, and the practicability of exploiting them. In the light of that fact, representatives of the land-locked States and those without continental shelves could not afford to be indifferent to the escalating claims by some coastal States to the sea-bed and ocean floor, since such an extension of national jurisdiction constituted an encroachment upon, and diminution of, the value of their future inheritance. They were not opposed to the interests of coastal States, whether developed or developing, but simply wished to point out that theirs were not the only interests which had to be taken into account. The task of the Committee was to try to find the point where the various interests could be brought into equilibrium.

There were two other matters he would like to touch on briefly. His delegation agreed with the representative of Sweden (46th meeting) that the work of Sub-Committee III should be co-ordinated with the preparations for the United Nations Conference on the Human Environment to be held in Stockholm in 1972. His delegation also agreed with the representative of Iceland (49th meeting) concerning the need to assemble a unified secretariat consisting of officials from the United Nations and experts from agencies concerned such as FAO, IMCO and IOC (of UNESCO). That unified secretariat should be headed by a high-level official who would report direct to the Secretary-General of the United Nations.

Singapore, as an underdeveloped country, was only too well aware of its present deficiencies. Its merchant fleet was minute and most of its products were still carried to their markets by the ships of developed maritime nations. Its fishing industry was archaic and its fishermen were no match for those from the developed countries. Nevertheless, Singapore was moving rapidly and energetically to remedy both those deficiencies. It took the attitude that its present state of underdevelopment was not a permanent, but only a temporary malady. It would urge other developing countries to adopt a similar forward-looking attitude and not one which seemed to assume that they would continue to be underdeveloped for an indefinite future.

Mr. SOLOMON (Trinidad and Tobago) said that the importance of the question of the sea-bed and its resources was becoming more widely appreciated as the United Nations work on the subject progressed. In his delegation's view, the Declaration of Principles embodied in resolution 2749 (XXV) constituted the only basis on which a régime for the international sea-bed zone could be established.

The Committee was embarking on the most crucial stage of its work. One of its main tasks was the preparation of the new conference on the law of the sea and the Committee's progress in that task would largely depend on its methods of work. The procedures adopted would in some measure determine the results obtained on substantive questions. No rigid distinction should therefore be made between procedure and substance in a matter where problems were so closely interconnected. Mutual goodwill in the difficult negotiations ahead would alone enable States to reconcile their conflicts of interests in the marine environment. Those conflicts were not simply those of developing countries against developed countries.

With regard to the agreement on the organization of work (see 45th meeting), his delegation, because of its limited manpower resources, had only reluctantly agreed to the establishment of three Sub-Committees instead of just two. In its view, the role of the main Committee should be that of a co-ordinator rather than that of a body to engage in substantive discussions in the first instance of any of the specific subjects falling under its mandate.

Under the agreement on the organization of work, the main Committee had been entrusted with the treatment and allocation of the three outstanding issues: the precise definition of the area, the peaceful uses of that area and the question of priority. It would have to examine the problems involved in those controversial issues and assign them to one or other of the Sub-Committees for consideration in depth and the drafting of articles. In his delegation's view, it would be contrary to the whole spirit of the agreement on the organization of work if the main Committee were to allocate any one of those controversial issues to itself.

The security of all States, especially the small and weak States, was intimately bound up with the peaceful uses of the sea. The technologically advanced and powerful military States had in the past interpreted the principle of the freedom of the seas very broadly in order to be able to subjugate and colonize other peoples. At any new conference on the law of the sea, the so-called freedom of the seas would have to be regulated and balanced against the need of States to safeguard their national security and sovereignty.

His delegation suggested that the question of the peaceful uses of the area should be allocated to Sub-Committee III, which had a somewhat light workload. The prevention of pollution and scientific research, which were included in that workload, could well come under the heading of the peaceful uses of the sea. Training and assistance also demanded the urgent consideration of Sub-Committee III.

With regard to the question of the precise definition of the area, his delegation felt that it was within Sub-Committee II that agreement was likely to be reached in a comprehensive package on the limits of national jurisdiction. Its terms of reference included the issues examined by previous conferences on the law of the sea; if Sub-Committee II reached agreement on the extent of the territorial sea, the nature and extent of the preferential fishing rights of coastal States, the outer limits of the continental shelf and the definition of the shelf's resources, it would have arrived for all intents and purposes at a precise definition of the area to which the international régime was to apply.

If Sub-Committee I were entrusted with the task of making recommendations on the precise definition of the area, its work would inevitably be bogged down. His delegation could not accept any intermediate zone between national and international jurisdictions. The international zone to which the régime was to apply was bounded by the outer limits of national jurisdictions.

The question of priority in the light of the seventh preambular paragraph of resolution 2750 (XXV), was not controversial: the elaboration of an equitable international régime would facilitate agreement on the questions to be examined at a new conference on the law of the sea. The Committee should lay down the main elements of the régime as a matter of priority, since only thus could agreement be reached on drafting articles on other questions. Resolution 2574 A (XXIV), which was recalled by resolution 2750 C (XXV), was even more explicit in recognizing that the elaboration of the régime would facilitate the task of determining the limits to which it would apply. Both resolutions were thus clear on the question of priority, and priority should be construed as "priority of treatment", in accordance with the meaning given to the term "priority" by the International Law Commission, as stressed by the Canadian representative in the debate of the General Assembly at its twenty-fifth session.[1/]

1/ See A/PV.1933.

It would be quite unrealistic to expect agreement to be reached on the precise definition of the area until at least the main elements of the international régime had been worked out. The criterion of exploitability laid down in the Convention on the Continental Shelf (Geneva, 1958) was acceptable both to the technologically advanced and to the developing coastal States. Giving priority to the régime might therefore prove to be the catalyst needed to expedite agreement on the related law of the sea questions.

The technologically less advanced States were becoming increasingly aware of their interests in the maritime zones falling under their jurisdiction by reason of customary international law. They were not impressed by the threat that rapidly developing technology might erode their existing rights in law and could therefore not be stampeded into taking precipitate decisions which might adversely affect their interests. His delegation adopted a realistic approach to the problem of the apportionment of benefits. In the short term, benefits for the developing countries might well be minimal.

The concept of the common heritage of mankind, which was the cornerstone of the international régime to be established, was now enshrined in paragraph 1 of the Declaration of Principles contained in General Assembly resolution 2749 (XXV). Since no delegation had cast a negative vote on that resolution, it had something of the authority of a binding decision. The Declaration of Principles did not establish an interim régime; it was intended merely as the basis on which the international régime was to be built. That régime should be strong and have comprehensive powers to deal with activities in the area.

His delegation also wished Sub-Committee I to discuss the concept of regional management in the administration of the international régime, the applicability of the archipelago principle in semi-enclosed areas, and the relationship between the international régime and regional maritime arrangements already agreed to within the framework of so-called closed areas.

In keeping with the "common heritage" principle, each State was entitled to its share of benefits. That share was not aid and could not be treated as such, and would not in any way relieve contributors to United Nations agencies of their existing obligations. Another point was that of access to world markets for the produce of the international zone. It would be discriminatory for a State to amend its tax legislation so as to protect its own nationals and thereby deny equal access to its markets for the produce of the international zone, regardless of the nationality of the operators.

The preparation of the comprehensive list of subjects relating to the law of the sea had been entrusted to Sub-Committee II. That was a broad mandate which ensured an organic and comprehensive approach to the law of the sea. Operative paragraph 6 of resolution 2750 C (XXV) would appear to suggest that the drafting of articles on such subjects should commence only after the formulation of a comprehensive compendium of existing subjects. In his delegation's view, however, the Sub-Committee could decide to draft articles on any issue before it had completed such a list. The actual preparation of a comprehensive list should not prove an unduly long process. His delegation felt that if any State or group of States insisted that a subject be included, then that subject should be included.

Sub-Committee II should give clear priority to the training of nationals of developing countries in all aspects of marine science and technology and sea-bed operations. In the First Committee of the General Assembly, at its twenty-fifth session, his delegation had stressed both the fundamental character and the urgency of that question. It was unfortunate that the Governing Council of UNDP, at its eleventh session, had not treated that matter with the urgency which it deserved and his delegation appealed to the present members of that Council to give priority in their programmes to the question of training and assistance to developing countries. Participation by those countries in all branches of scientific research was essential and his own country would seek the help of UNDP for the establishment of a regional oceanographic centre for the Caribbean.

Having thus stated its preliminary views on some of the substantive issues, his delegation would revert to those issues in detail during the discussions of the Sub-Committees.

Mr. MATSEIKO (Ukrainian Soviet Socialist Republic) said that at its present and subsequent sessions the Committee would be considering a whole series of problems, varying in nature but closely connected with the use of the ocean for the benefit and in the interests of humankind. Those problems could be divided into two categories. First, questions of the peaceful use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of international jurisdiction, which related to the elaboration of a just and equitable international régime of the sea-bed, including the corresponding international machinery, and the definition of the exact borders of the area beyond the limits of national jurisdiction. Secondly, a number of maritime law questions not previously settled, in particular the question of breadth of the territorial

sea, including the question of safeguarding freedom of passage through straits for international shipping and the question of establishing fishing areas in cases where the breadth of the territorial sea was less than twelve miles. The particular characteristics and the complicated nature of those questions had to a large extent conditioned the organizational structure of the Committee.

The results of discussions at previous sessions of the Committee, in particular during the twenty-fifth session of the General Assembly, provided convincing evidence of a desire for a wider and more rational use of the ocean and of the need for effective international regulation of the activities of States in that sphere.

In preparing, in anticipation of the forthcoming conference, the draft treaty articles embodying the international régime for the sea-bed, including international machinery, it would be necessary to take into account the provisions of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction. That document contained a number of important provisions which could play a positive role in formulating concrete treaty rules regulating international co-operation in the exploration and exploitation of the resources of the sea-bed and the ocean floor. His delegation noted in particular the provision to the effect that the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction should be open for use exclusively for peaceful purposes. It had already drawn attention at the twenty-fifth session of the General Assembly to the topicality and urgency of the problem of prohibiting the use of the sea-bed for military purposes. A good start for transforming the sea-bed into a zone of peaceful international co-operation had been provided by the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, which had already been signed by many countries including the Ukrainian Soviet Socialist Republic.

In working out the régime, it was important to be guided by the principles of the Declaration, which laid down that the area should not be appropriated by States or by natural or juridical persons, and that no State might claim sovereignty or sovereign rights, or exercise such sovereignty or rights, over any part of the sea-bed beyond the limits of national jurisdiction.

The articles of the draft treaty on the international régime of the sea-bed should contain provisions under which all States should act in that area in the interests of maintaining international peace and security, of contributing to international

co-operation, and of the strict and unswerving observance of marine international law including the United Nations Charter. The treaty should be open for accession by all States without discrimination, whether or not the State was a member of the United Nations or of a specialized agency. Such an approach would answer the purpose of developing international co-operation on the use of the sea-bed and the ocean floor and its resources for the benefit and in the interests of all mankind.

The question of international machinery for exploration and exploitation of the sea-bed resources was extremely complicated, as was confirmed by a report of the Secretary-General (A/AC.138/23) in which were outlined various possible forms that the international machinery might take. Such machinery could be set up on a realistic basis, for example on the basis of a universal treaty on the international régime of the sea-bed and the ocean floor beyond the limits of national jurisdiction, which would make it possible to define the appropriate status, structure and functions of the machinery.

The difficulties in working out legal rules covering the activities of States on the sea-bed, including the rules of the régime and machinery, were to a large extent due to the insufficiency and the fragmentary nature of existing knowledge of that environment. Consequently States should intensify their investigation of the sea-bed. The general direction to be followed in solving that important problem had been specified in the Declaration of Principles, which called upon States to contribute to international co-operation by participating in international programmes and by encouraging co-operation between scientists from different countries and circulating the results of their investigations through international channels.

To be effective and universally acceptable, the régime for the sea-bed should not restrict but should contribute to the freedom of scientific research. The Ukrainian Soviet Socialist Republic was at present conducting extensive scientific investigation of the sea-bed. Ukrainian scientists were actively engaged in the study of the Atlantic Ocean, and similar research had been carried out in some areas of the Indian and Pacific Oceans. A great deal of sea-bed research was being carried out in connexion with international programmes. His country was taking part in a long-term programme of oceanographic research and in regional and bilateral programmes in the Mediterranean and Caribbean Seas and parts of the Atlantic Ocean. Scientists from institutes of the Ukrainian Academy of Sciences and other organizations were taking part in sea-bed exploration. Six ships of the Academy of Sciences were engaged in scientific exploration expeditions and two large ships were exploring the depths of the Pacific Ocean.

In connexion with the maritime law questions that the Committee would be considering, the Ukrainian delegation had already stressed at the twenty-fifth session of the General Assembly that the question of establishing the breadth of the territorial sea within limits of not more than twelve miles, and the related questions of straits and of fishing rights, were of priority importance and required urgent settlement. Otherwise it would be difficult to hope for a successful solution to the whole series of questions connected with international co-operation in the use of the ocean for the benefit and in the interests of all mankind.

He understood the concern expressed at the twenty-fifth session of the General Assembly and in the Committee at the tendency towards a new unilateral solution of the question of the breadth of territorial waters. That solution had been put forward by some delegations almost as a principle; but a unilateral approach to the solution of such a vital international problem would inevitably lead to complications, disputes and controversies. It was necessary, therefore, to achieve an international agreement which would meet the interests of all States, great and small, developed and developing, maritime and non-maritime. The solution of that and other questions of maritime law should not be based on unilateral action, but on international co-operation and agreement and respect for the interests of all States, in the interests of international peace and security and of contributing to reciprocal understanding. That was what was called for by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970 [resolution 2625 (XXV)].

His delegation also advocated the precise definition of the external limits of the continental shelf of the maritime countries. It was difficult to work out the legal norms of a treaty regulating questions of the exploitation of the resources of the sea-bed beyond the limits of national jurisdiction if the exact limits of such jurisdiction were not known in practice. Work on those two closely linked aspects should be carried out simultaneously in order to obtain acceptable decisions.

He had noted with interest the statements by a number of delegations at the twenty-fifth session of the General Assembly in favour of defining the continental shelf on the basis of the existing criterion of a depth of 200 metres, which was the average limit of the outer edge of the geological shelf, with the criterion of a fixed distance from the base line for calculating the breadth of the territorial waters of maritime States. That would make more precise the provision contained in the Convention

on the Continental Shelf (Geneva, 1958) concerning the areas contiguous to the shore. The Committee should carefully consider that point of view when it started work on the problem.

He agreed with those representatives who had expressed the view that the settlement of unsolved problems of maritime law should be made on the basis of the Geneva Convention of 1958, the norms and principles of which had been established as the result of long process of historical development and had stood the test of time. Attempts to undermine or shake that international basis could only lead to serious complications between States and place difficulties in the path of international co-operation in the utilization of the ocean.

Mr. KANIARU (Kenya) said that, if some delegations had seemed sceptical about the international régime and the international machinery, it was because they were concerned that they should fulfil the purposes for which they were intended. They hoped that the international régime would be mature, that it would be the result of careful consideration and as far as possible of a reconciliation of the diverse interests of the community of nations - rich and poor, developed and developing, coastal and landlocked - in an era of international co-operation. With goodwill and give-and-take by all States, none claiming more important interests than others or playing off their interests against those of others, the Committee should succeed in its preparatory work for the proposed conference on the law of the sea to be held in 1973 or later. Those interests were wide, involving economic, military, naval, strategic, navigational, political and other aspects. As had been observed by the representative of Peru (46th meeting), any attempt by one group of States to belittle the interests of others would prejudice the success of the Committee's work.

A number of topics had not been agreed upon by the regional groups in the understanding reached on the organization of work and related matters. One was the question of priorities for the international régime, on which he agreed with the comments made by the representative of Ceylon (47th meeting).

What the developing States - including Kenya - wanted was a strong régime and international machinery with the power, functions and operating rules to ensure that the exploration and exploitation of the resources of the area in question benefited all, especially the developing States. A simple régime and machinery would therefore not be acceptable to the developing States. The representative of India had already explained the principles underlying the views of the developing States (48th meeting),

it was important that they should submit their objectives early in order to secure the international régime and machinery they desired.

The delegation of Kenya considered that in the universal instrument, the Declaration of Principles adopted in General Assembly resolution 2749 (XXV) should be given the force of law. The sharing of benefits between States should be subject to clearly specified rules and should not be dependent on the will of the exploiting State, as seemed to be envisaged in part IV - "Royalties" - of the proposals submitted by France, in particular the sentence: "When an exploitation licence is allocated, the State concerned should undertake both to establish and recover such a tax, and also to contribute an appreciable share of it to any international, regional or bilateral programme of assistance to the developing countries which it may select."[2/]

The organs supervising, controlling or regulating the activities of the régime should not be too numerous or the early returns of the régime would be consumed by the international machinery. They should not function on similar lines to existing organs which had sometimes caused resentment among States by making it difficult to reach agreements or decisions. There should be no infringement of the principle of sovereign equality in the functioning of those organs, such as the use of the veto by a few members to block decision-making in the Security Council.

Regarding the trusteeship area proposed by the United States of America,[3/] his delegation had stated before the First Committee of the General Assembly[4/] and other bodies that it found the idea unacceptable because it was not consistent with the notion of the common heritage of mankind. Unlike the situation with regard to trusteeship as understood in municipal law, the trustee would benefit more than the intended beneficiary. The Kenyan delegation at the twelfth session of the Asian-African Legal Consultative Committee (Colombo, January 1971) had stated that it opposed the trusteeship concept because it was tantamount to a device to add to the inequalities caused by the irregularity of the continental shelf. A State with a broad continental shelf would have a broad continental margin, and the reverse would be equally true. The creation of another sizeable area of the sea-bed to be called the international trusteeship area, in which the coastal State would have sole discretion to decide

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2/ See Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021), annex VII, p. 190.

3/ Ibid., annex V.

4/ See A/C.1/PV.1730.

whether and to whom a licence should be issued, would exercise criminal and civil jurisdiction over its licensees and would receive between 33 1/3 per cent and 50 per cent of the fees and payments, would amount to a further annexation of the sea-bed to the coastal State, with the lion's share going to the States with broad continental shelves. The Afro-Asian countries should totally reject such a discriminatory concept which would ultimately favour only large corporations from developed countries. They should insist that all the area beyond the agreed limits of the continental shelf was the common heritage of mankind, to be exploited for the benefit of the international community under the sole control of an international sea-bed authority.

Another of the topics not agreed upon by the regional groups was the precise definition of limits, which his delegation considered should be dealt with by the sub-committee responsible for the international régime and the international machinery, but without affecting the priority of the two latter questions. His delegation recognized, however, that there was no reason to prevent other sub-committees from discussing the question in so far as their terms of reference related to the questions of limits generally or to the international régime in particular. The view had been widely expressed that the decisive comments on the question should come from Sub-Committee II; the observations on that point by the representative of Singapore deserved consideration. His delegation recognized that if limits of the continental shelf could be defined, the limits of the international régime would be virtually agreed on.

His delegation considered that the other controversial issue - peaceful uses - should be assigned to Sub-Committee III, but without precluding its discussion in the other sub-committees if warranted by their terms of reference. Sub-Committee III was not heavily burdened; a decision on some of the topics included in its terms of reference might be accelerated by discussions elsewhere, for example at the conference on the human environment to be held in Stockholm in 1972, which would be dealing with marine pollution, and the question of peaceful uses was partly covered by the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, recently opened for signature.

On questions concerning the law of the sea, in particular the preparation of a comprehensive list of subjects and issues and the drafting of treaty articles, his delegation shared the views of the representative of Ceylon (47th meeting).

Comprehensive did not mean complete. While subjects and issues agreed upon could be discussed and the drafting of articles started, any Government could submit other subjects or issues within the terms of reference of the Sub-Committee before the proposed 1973 conference. His delegation did not agree with the view that only those subjects or issues not resolved at the 1958 and 1960 Conferences on the Law of the Sea should be placed before the Sub-Committee and ultimately the proposed conference. It held that no matters were precluded in so far as they were or appeared to be still unsettled or unduly advantageous or disadvantageous to any State or group of States.

His delegation hoped that, in accordance with the invitation in operative paragraph 13 of General Assembly resolution 2750 C (XXV), the organizations closely associated with the application of the law of the sea - IMCO, FAO and IOC (of UNESCO) - would make the relevant reports available to the Committee in order to enable the Committee or the Sub-Committees to make recommendations based on complete understanding. Governments should submit their problems over the present law of the sea so that they could be remedied at the forthcoming conference.

The meeting rose at 12.40 p.m.

SUMMARY RECORD OF THE FIFTY-FIRST MEETING

Held on Thursday, 18 March 1971, at 11.5 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

Mr. FERGO (Denmark) said that Denmark, with its long tradition as a seafaring nation, had consistently taken an active interest in the solution of all problems relating to the law of the sea, and that applied also to the new problems of the sea-bed and the ocean floor.

Denmark was partly a shelf-locked country but also possessed, on account of Greenland and the Faroe Islands, one of the longest coastlines in the world bordering upon the open sea. It was thus in a unique position to understand the differing viewpoints on the problem.

Of the subjects to be considered by the Committee, his country attached prime importance to an early solution of the question of the sea-bed, and of the questions which had been left unsolved at the United Nations Conferences on the Law of the Sea, Geneva (1958 and 1960), namely, the breadth of the territorial sea and the extent of the preferential rights to be accorded to coastal States in waters adjacent to their territorial sea. Another question was whether the existing rules on the passage of international straits should be supplemented and clarified to cover the case of the possible emergence of new straits as a result of any future extension of the breadth of the territorial sea.

The Declaration of Principles embodied in resolution 2749 (XXV) set out generally agreed goals for the intentions of the international community with regard to the sea-bed and ocean floor beyond national jurisdiction and provided a valuable basis for the Committee's deliberations. The principle that States must promote international co-operation in scientific research through the means set out in operative paragraph 10 of resolution 2749 (XXV) was particularly important. Equality of legal opportunities was not enough; it was necessary to endeavour to secure also practical opportunities for any State to utilize the rights conferred upon it. The technological skill and financial strength required for exploitation of the resources of the sea-bed were found in only a few of the most developed countries. The necessary mechanism should be established to level out the present differences in capabilities.

Equally important was the recognition of the rights and legitimate interests of coastal States in the activities of other States in the area of the sea-bed adjacent to their coasts. His delegation hoped that internationally binding rules could be agreed upon to preserve the living and mineral resources which could condition the future welfare of the coastal States.

The draft United Nations convention on the international sea-bed area - submitted by the United States -1/ struck, in principle, a careful balance between the differing interests; a remarkable point was that funds to promote the economic advancement of the developing States could be available practically from the moment the proposed convention entered into force. On other points of the draft, however, his delegation had some doubts, particularly with regard to the method of delimitation of the international area and to the question whether the proposed limit for national jurisdiction would prove generally acceptable to coastal States.

With regard to the international machinery for the international area and its resources, Denmark favoured in principle machinery with fairly comprehensive powers to regulate, co-ordinate, supervise and control the sea-bed activities in the international area, while leaving an important role to the States. Although it could not at that stage take a definite position on any specific type of machinery, his delegation could well imagine acceptance of the exclusive competence of an international body in areas of the deep ocean, but would find it natural to confer certain prerogatives on coastal States in areas adjacent to their coasts and their present national jurisdiction.

On the law of the sea, his delegation believed that there was no need for a general revision of the four Geneva Conventions of 1958 which codified essential rules of international law relating to the sea.2/ Admittedly, the growing interest in the utilization of the sea and its living and mineral resources had accentuated the need for progressive development of the law of the sea, but experience had shown how difficult it was to reconcile the conflicting interest of countries. The outstanding problems could only be solved if there was a general willingness to compromise.

1/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021), p.130, annex V.

2/ The Convention on the Territorial Sea and the Contiguous Zone; the Convention on the High Seas; the Convention on Fishing and the Conservation of the Living Resources of the High Seas; and the Convention on the Continental Shelf.

The answer might perhaps be found in less rigid systems than had so far been suggested. In international relations, there was a general recognition that developing areas should be assisted in order to attentuate differences in capabilities. A similar recognition that there were countries, and isolated areas of countries, which were heavily dependent on the resources of the sea might lead to the adoption of differentiated solutions, with due regard to the interests and rights of other countries in the use of the sea.

Denmark had a fishing fleet operating on the high seas and in waters adjacent to the territorial seas of other countries. At the same time, the local population of geographically isolated parts of Denmark earned their living mainly or solely from fishing in waters adjacent to the Danish coast. Denmark was therefore interested in the adoption at the international level of durable and equitable solutions which would be satisfactory to both interest groups.

His delegation welcomed the inclusion in the agenda of the subject of the prevention of marine pollution, a problem which called for speedy and positive action. Since, however, the problem was already being studied by a number of international bodies, including the Preparatory Committee for the United Nations Conference on the Human Environment, steps should be taken to co-ordinate the various international activities on the subject with the work of the Committee.

Mr. YANKOV (Bulgaria) said that the broader scope of the mandate of the enlarged Committee, which covered an extended number of problems relating to the sea-bed and to some extent to the law of the sea as a whole, placed a much greater responsibility on its entire membership.

Developing technology had added a new dimension of human activity to the traditional uses of the sea, which were navigation and fishing. The progressive accessibility of the vast resources of the sea-bed and sub-soil were an important new phenomenon in the use of the world oceans. The promising new opportunities it now afforded should not, however, be allowed to give rise to national rivalries and harmful competitions or to conflicts between narrow national interests and the welfare of mankind.

His delegation understood the aspirations of all nations to achieve a more effective economic independence and to exercise fully their sovereign rights over their national resources; it appreciated their efforts to resist the attempts of powerful foreign economic interests to dominate their economies and exploit their

wealth. It could not, however, agree with excessive national claims which could be detrimental to the interests of the international community. Such an extension of national jurisdiction over the ocean space could lead in practice to mere partition of the accessible resources of the sea, and thus reduce almost to nothing the area to be considered as the common heritage of mankind. Any appropriation whether by great or small, by rich or poor, was always an appropriation, and must always be restrained. Mutual respect for the legitimate interests of all States, based upon the principle of sovereign equality, was essential.

It was also essential that exploration and exploitation of the resources of the sea-bed should not extend to unjustified interference with the other uses of the sea. Technological advances required the development of new rules on a number of points, but the amendment of the existing rules of the law of the sea should be based on a stable and sound foundation. Caution and patience should not be confused with conservatism, nor should hasty solutions be adopted in the name of the progressive development of international law.

A basic prerequisite for a sound and equitable régime of the sea-bed and a law of the sea that corresponded to the present international reality was the general accession of all States to the respective international instruments. The Geneva Conventions on the law of the sea, and any further arrangements relating to that law, should be open to all states without any discrimination based on a precondition such as membership of the United Nations or any other institution. Operative paragraph 9 of General Assembly resolution 2749 (XXV) called for the establishment of an international régime for the sea-bed area by an international treaty "of a universal character", a principle which should also be applied to the entire body of the law of the sea.

In its second preambular paragraph General Assembly resolution 2574 A (XXIV) stated that "the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf, the superjacent waters, and the sea-bed and ocean floor beyond the limits of national jurisdiction, are closely linked together." That also applied to the delimitation of the sea-bed beyond the limits of national jurisdiction and the régime to be established there. An international régime was not conceivable unless the area to which it would apply was known.

It was neither reasonable nor even practicable to try to establish some kind of hierarchical order between the two problems. Operative paragraph 6 of General Assembly resolution 2750 C (XXV) could not in itself provide any legal basis for establishing a specific priority. It merely instructed the Committee to prepare for the conference on the law of the sea draft treaty articles embodying the international régime and a comprehensive list of subjects and issues relating to the law of the sea.

Since the Committee had been requested to carry out those two tasks, it had established two sub-committees, Sub-Committee I to deal with the first group of problems and Sub-Committee II to deal with the second (45th meeting). No priority had been established a priori between those two subsidiary bodies. Each of them should therefore carry out those tasks under the guidance of the main Committee. Discussions on priorities, particularly at the present stage, could only distract the attention of the Committee from the efficient accomplishment of its objectives.

With regard to the programme of work, his delegation felt that the Committee should prepare the ground for the next session which, it hoped, would come to the heart of the problem. An important achievement of the present session had been the agreement reached on the organization of work (45th meeting) which provided for the establishment of the three sub-committees and their terms of reference.

In the opinion of his delegation, the main subjects considered by Sub-Committee I should be the limits of the territorial sea, the régime of a zone for fishing contiguous to the territorial sea of the coastal State if the breadth of its territorial sea was less than the internationally established limit. It might also be advisable that the list of items studied by that sub-committee should include the problem of the freedom of passage through international straits which lay within the limits of the territorial sea of the respective coastal State.

Another problem which should be considered, in connexion both with the régime of the sea-bed and with the law of the sea in general, was that of the outer limits of the continental shelf. In his opinion, that question should not be dissociated from the over-all question of the international régime of the sea-bed, since it was evident that if that régime was to be applied to a deep sea area because of a very great extension of national jurisdiction seawards, then the technical, economic, legal and institutional implications might be very different from those of a régime for an area where the ocean depths and off-shore distances were not so great.

With regard to the Committee's method of work, particularly in relation to its preparation for the conference on the law of the sea, his delegation would like to state the following: it was logical that a list of subjects and issues relating to the law of the sea should be established first and then be followed by the elaboration of draft treaty articles concerning them. At the same time, as provided in the agreement reached on the organization of work the drafting of certain articles might start even before the completion of the comprehensive list of subjects and issues; other questions concerning the preparation of the conference on the sea, such as the precise agenda, data, location, duration and other organizational details, could be considered at a later stage. As a matter of principle, however, the principle of universal participation should be applied without any reservations.

Mr. STEVENSON (United States of America) said that his Government had initially felt that an approach which treated different issues of the law of the sea consecutively in "manageable packages" would be one way of reaching equitable solutions in the most orderly and prompt manner. However, his delegation had been persuaded by others that the various issues were so inter-connected that it would be better to resolve the important issues simultaneously and comprehensively rather than to have negotiations on one issue unnecessarily complicated by fears regarding the future resolution of another issue.

The decision of the General Assembly to call a comprehensive conference in 1973 (resolution 2750 C (XXV), operative paragraph 2) naturally suggested a comparison with earlier conferences on the law of the sea. It had been pointed out that the International Law Commission had spent six years - from 1950 to 1956 - in preparing draft articles for the 1958 Conference. It would be a mistake, however, to follow that analogy too closely. Admittedly the Committee had the responsibility to examine the law of the sea comprehensively, particularly from the point of view of States which had not attended the 1958 Conference, but it had to deal only with those specific issues which it believed were in need of attention at the present time; to the extent that it chose to do so, it could rely on the achievements of the 1958 Conference as reflected in the four existing United Nations Conventions on the Law of the Sea. Needless to say, the Committee should resolve those issues which the earlier Conferences had been unable to resolve.

Moreover, great progress had already been made in the United Nations itself since 1967 towards drafting an international régime of the sea-bed. That was a subject which the international community had never before considered, but about which there was now a common understanding. More important, when the General Assembly had adopted its Declaration of Principles Governing the Sea-Bed and the Ocean Floor at its twenty-fifth session, it had established a common foundation on which to build. Thus, by the time a conference came to be held in 1973, the United Nations would have devoted nearly six years of intensive work to the establishment of a new international régime for the sea-bed.

By far the most important decision taken by the General Assembly at its twenty-fifth session had been to provide for dealing with the law of the sea in a multilateral context. But if internationalism was to succeed, the Committee would have to demonstrate to the world that nations could deal with their vital interests in an international forum. That called for a frank and open discussion of what those interests were. If representatives would emphasize what their countries' problems and aspirations were, instead of limiting themselves to a restatement of negotiating positions, everybody could work together to find solutions. By solutions, he meant agreements which reflected and accommodated a wide number of very complex interests - and not merely superficial or arbitrary compromises.

There were no simple solutions to complex problems. Indeed, one of the greatest problems of the law of the sea today was that it attempted to deal in simple absolute terms with the distribution of rights in the oceans. In each case, it was necessary to examine the relevant interests and find a legal formula which would accommodate them. That was not a mere matter of compromise but rather one of building a legal structure which would be simultaneously responsive to different needs and interests.

There was an emerging view that the maximum breadth of the territorial sea should be extended to twelve miles. That could mean in theory that, on the one hand, the coastal State was absolutely sovereign over the sea-bed, waters and airspace up to twelve miles, and that, on the other hand, it had no special rights in the area beyond. In fact, however, such a result would not be satisfactory as an accommodation of interests unless special provision were made for free transit through and over international straits, and unless there were provision for the interests of coastal States in fisheries and sea-bed resources beyond a twelve-mile territorial sea.

The question of protecting coastal State fisheries interests beyond the territorial sea could be approached from several perspectives. Although everybody was agreed on the necessity of ensuring the conservation of the world's fisheries, recent technological developments had emphasized not only the need for conservation but also the economic problems of coastal States in protecting their coastal fishermen. A simple proposition would be to give the coastal State exclusive fisheries jurisdiction in a zone of fixed breadth, or to give it specific preferential rights in such a zone. A more complex solution would be to recognize that neither fish nor fishermen could be separated by artificial lines, and that coastal State rights beyond the limit of the territorial sea should be based on the economic interests of coastal State fishermen in a stock of fish associated with adjacent coastal waters, rather than on the distance of the stock from shore. In the view of his delegation, the latter approach more closely reflected the biological and economic realities on which any sound accommodation of interests should be based. While a basic rule of law would be established, the effects of its application would vary with different economic conditions in different parts of the world. The fact that different coastal States had different interests in fisheries in itself commended a certain flexibility but did not mean that there could be no universal rules. It merely meant that the rules should require a balancing of interests and not prejudge what the particular results should be with respect to every stock of fish in every part of the world. Such rules could be formulated to make the maximum use of international or regional fisheries organizations.

An analogous problem existed with respect to the sea-bed. Beyond the territorial sea, coastal States had exclusive sovereign rights to the natural resources of the legal continental shelf, although the precise outer limit was not yet agreed upon. The question of a precise definition of the sea-bed area underlying the high seas beyond the limits of national jurisdiction was the same as the question of the seaward juridical limit of the continental shelf, and it was self-evident that the more seaward the boundary of the continental shelf moved, the smaller was the area of the sea-bed to which the new international régime would apply.

His Government proposed that a new international régime for the sea-bed should apply to the broadest practicable area - to the area outside a territorial sea of twelve miles, seaward of the point where the high seas reached a depth of 200 metres.

However, as with fisheries beyond the territorial sea, his delegation did not propose that beyond such a limit coastal State interests should be disregarded. It proposed rather that the régime should provide for accommodating those interests by providing the coastal State with carefully defined but substantial rights and functions under the international régime in an International Trusteeship Area, seaward of the sea-bed area over which the coastal State enjoyed sovereign rights. Once again, the interests involved were complex, and the solution his delegation proposed reflected that complexity. The question whether the word "trusteeship" adequately described what he had in mind was not important. The essential point was that the international, coastal and maritime interests involved could and should be accommodated. The precise mixture of those respective rights in that area should be equitable. His delegation was much more concerned with reaching an equitable formula than with the particular mixture of such rights.

His delegation believed that its own national interests were so diverse that it was in a good position to understand and facilitate the accommodation of the interests of many other countries. For the United States was both a maritime and a coastal State, with a very long coastline indeed on three oceans; it was both a distant water and a coastal fishing State; it was the beneficiary of one of the most promising continental shelf areas off its coast while being an industrial country with the capacity to organize and engage in mineral production off other countries' coasts; and it was both a domestic producer of oil, gas and hard minerals and an importer of those commodities.

He would urge the Committee to avoid procedural debates, to set aside controversial procedural problems and to try to work out the underlying substantive questions together. His delegation was impressed by the suggestion that the Committee should employ the expertise of the specialized agencies to help it in that regard. It should also open the doors wide and permit a free and unrestricted examination of all relevant aspects of a problem in the Committee and in the sub-committees.

The meeting rose at 12.30 p.m.

SUMMARY RECORD OF THE FIFTY-SECOND MEETING

Held on Thursday, 18 March 1971, at 3.25 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. PROHASKA (Austria) said that, in order to have useful negotiations and to find reasonable solutions to the outstanding issues - in particular the question of priorities and the question of the exact definition of the area beyond the limits of national jurisdiction - it was first of all necessary for each delegation to explain its position. The statement of the different positions in the Committee could then provide a starting point which would lead to the preparation of draft treaty articles in the sub-committees.

His delegation's point of view was determined by the fact that Austria was a land-locked State. However, like other States Members of the United Nations which were in the same position, Austria had a genuine interest in matters of sea-bed development, especially at the present time when it was generally recognized that the sea-bed and the ocean floor and the resources thereof were the common heritage of all mankind and should be exploited for the benefit of mankind as a whole, taking into particular consideration the needs and interests of the developing countries, as stated in the General Assembly's Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction [resolution 2749 (XXV)] The Austrian delegation had already expressed the hope that the development of marine mineral resources would provide additional means for helping to reduce the gap between developed and developing countries, and it reaffirmed that the objective of the Austrian Government's policy in those matters was to ensure that due regard was paid to the interests and needs of developing countries.

Austria, like all land-locked States, stood to benefit from the development of marine resources only if the sea-bed and ocean floor were explored and exploited in an orderly manner, in the framework of an international régime including appropriately strong international machinery. Moreover, such a solution was in the interests not only of the land-locked countries, but also of the shelf-locked countries and countries which had only a short coastline. The Austrian delegation would therefore support any proposal which would give priority to the consideration of an international régime,

including the delimitation of the area over which the régime was to apply. If such delimitation were not included, some States with long coastlines could reserve their position regarding limits until the régime had been elaborated, and thus they would be able to keep their options open between the alternatives of accepting the sea-bed régime and small limits or of taking compensatory or unilateral measures on their own.

The land-locked or shelf-locked countries had only one option - an international régime extending over a substantial area of the ocean floor, implemented by international machinery capable of meeting the requirements of the international community.

It was obvious therefore that the question of the delimitation of the sea-bed and the ocean floor was closely and inseparably connected with the work of Sub-Committee I which had been instructed to prepare draft treaty articles embodying the international régime. That meant that the question of the definition of the area should be discussed and considered concurrently with the elaboration of the régime, a task which should receive priority on the programme of work.

Another matter which had been referred to Sub-Committee I for consideration concerned the economic implications of the exploitation of the resources of the area. That issue should naturally rank highly on the agenda, but it could not be assessed and examined to a satisfactory degree until it was known what minerals and what resources would be exploited under an international régime - or, in other words, until the international area had been delimited - since marine mineral sesources were not evenly distributed over the ocean floor.

Consequently, the Austrian delegation was of the opinion that Sub-Committee I should give priority to the consideration, simultaneously, of the questions of the régime, the delimitation of the area, the economic consequences of an international exploitation of the area and, lastly, the question of the sharing of benefits.

Mr. SCOTT (Jamaica) said that the intricate negotiations which had preceded the first formal meeting of the Committee were indicative of the continuing struggle that would face the developing countries as they strove to ensure the elaboration of an equitable international régime and machinery. Those countries should try to correct the economic imbalance which had been brought about by centuries of colonial exploitation, and to ensure for their peoples an equitable share in the resources of the marine environment.

Before becoming a member of the Committee, Jamaica had been in the forefront of the struggle of the developing countries in support of the "common heritage" concept, and had played an active role in the General Assembly in the negotiations regarding the future conference on the law of the sea and the composition and terms of reference of the enlarged Committee. The two weeks that had preceded the establishment of the sub-committees had left no doubt as to the magnitude of the task that lay ahead, and the agreement reached on the organizations of work (see 45th meeting) showed that there were still widely divergent views on certain matters of procedure which could seriously delay the Committee's work.

Several major problems had to be settled. The first - the question of priority of treatment for the international régime - should be put in its true perspective. In resolution 2574 A (XXIV), the draft of which had initially been submitted by the delegations of Trinidad and Tobago and of Jamaica, the General Assembly had attached special importance to the convening of a new conference on the law of the sea, and had taken the view that the elaboration of a régime should precede a precise delimitation of the area. No unilateral declaration by any State could change that decision to suit its own purposes. At the same time, the first and seventh preambular paragraphs, and operative paragraphs 2 and 6 of General Assembly resolution 2750 C (XXV), taken together, established a clear priority for the international régime. In addition, there were the lucid statements made at the twenty-fifth session of the Assembly by the representative of Canada on behalf of the sponsors of that resolution, which bore out the understanding reached on that priority. The issue was therefore no longer controversial.

With regard to the second of the outstanding problems - the limits of the sea-bed and ocean floor area beyond national jurisdiction - Sub-Committee I could not by itself settle that question, given the intimate relation between those limits and the limits of the territorial sea or the continental shelf as the case might be; and the two latter issues clearly fell within the competence of Sub-Committee II, both of them being regulated by the exercise of national jurisdiction whether based on law or practice. The first need was to reconcile within Sub-Committee II the conflicting attitudes on the question of the extent of national jurisdiction before the outer limits of the area beyond national jurisdiction could be precisely determined.

His delegation did not share the view that the régime could not be elaborated until the limits of the area to which it would be applicable had been precisely defined.

Certainly, those limits were important so far as they established a clear division between the sea-bed and ocean-floor area on the one hand, and the national territory or territory under national jurisdiction on the other; but the precise determination of those limits was not a sine qua non to the determination of other important aspects of the régime.

His delegation attached the greatest weight to the fundamental economic issues underlying the establishment of any international régime and machinery for the area and its resources. On the basis of the Declaration of Principles Governing the Sea-Bed and Ocean Floor and from the standpoint of the concept of the "common heritage of mankind", he was particularly concerned that there should be most careful examination of such issues as the ownership, management, and control of the resources of the international sea-bed and ocean-floor area; the title to exploitation and exploration; the marketing of the resources of the sea-bed and ocean floor; and criteria for the equitable distribution of profits obtained therefrom. He stressed the preference of his delegation for an international régime with international machinery geared to exercising the greatest possible degree of management and control over the area and its resources.

It was impossible altogether to divorce activities arising in the area from the consequences they might have within the relevant area of national jurisdiction, and vice versa. For instance, he hoped that, in accordance with the terms of operative paragraph 14 of resolution 2749 (XXV), the international machinery would have built into it adequate means for providing compensation for damage caused within areas of national jurisdiction as a consequence of activities carried out beyond the limits of that area. It should also embody specific arrangements, even perhaps in conjunction with other international institutions, for providing necessary technical and financial assistance to developing countries for their own scientific research on the sea-bed.

In that respect, it was urgently necessary for nationals of developing countries to acquire skills in the field of marine science and technology. To that end, Jamaica and Chile had co-sponsored at the sixteenth session of the UNESCO General Conference a resolution[1/] which had been unanimously adopted and which requested UNDP to provide assistance in organizing training courses and in granting fellowships for the education and training of personnel in that field. But that was a continuing task and it was necessary to look forward to the elaboration of the appropriate international machinery.

1/ UNESCO, Records of the General Conference, Sixteenth session, vol. I, resolution 9.11.

With regard to the items allocated to Sub-Committee III, Jamaica as a small country was basically interested in ensuring that the question of the peaceful uses of the sea-bed and the ocean floor should be discussed, regardless of where it was discussed. The current political realities of the Caribbean demanded that the marine environment should be used only for peaceful purposes. The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and Ocean Floor and the Subsoil Thereof was a first step, and perhaps further study and elaboration in the Sea-Bed Committee could expand the provisions of the Treaty to cover the entire marine environment. It would be necessary to reconcile the responsibilities of the international régime with those to be undertaken by States parties in virtue of article III of the Treaty.

In considering the question of pollution, Sub-Committee III could study in depth the adverse effects of marine pollution (particularly that of oil) on the economies of countries which to a large extent depended on tourism. A new conference on the law of the sea should review the entire question in depth, with particular reference to flags of convenience.

The Jamaican delegation attached particular importance to the question of pollution and scientific research. As chairman of the Preparatory Committee for the United Nations Conferenc on the Human Environment (1972), Jamaica believed that the results of that Conference would be invaluable to the Committee and to Sub-Committee III in particular.

His delegation was prepared at the appropriate time to make specific proposals on a number of issues as its national interests dictated. As the representative of Jamaica had stated in the General Assembly at its twenty-fifth session, in regard to the progressive development of the law of the sea for the benefit of mankind as a whole, all members of the international community shared certain general interests. There could not, therefore, be any question of insisting upon unilateral solutions in the search for accommodation in an environment which was the common heritage of mankind. But the accommodation sought would have to be based on a forward movement and not on a mere manipulation of the status quo.

Mr. DE LA GUARDIA (Argentina) said that, in his delegation's view, the outstanding subjects listed in the third paragraph of the agreement reached on organization of work (see 45th meeting) should be distributed among the sub-committees for very thorough consideration, and that the sub-committees' conclusions should then be referred to the main Committee for approval or revision.

According to the agreement reached, the definition of the area could be considered by each sub-committee in the context of the subjects allocated to it, on the understanding that recommendations on the definition of the area were controversial matters to be settled by the Committee. His delegation was convinced that the only organ which could validly adopt recommendations on the subject was Sub-Committee II, which was to deal with all general issues relating to the law of the sea that had not been specifically and exclusively attributed to Sub-Committees I and III. Defining the area of the sea-bed and ocean floor beyond the limits of national jurisdiction was equivalent, at the same time, to delimiting the area of the sea-bed and the ocean floor under national jurisdiction. Once that irrefutable principle had been accepted, it had to be recognized immediately that the definition of the sea-bed within national jurisdiction implied revision of the definition of the continental shelf given in article 1 of the Convention on the Continental Shelf (Geneva 1958),[2/] article 2 of which stated that the coastal State exercised sovereign rights over the continental shelf thus defined. Thus, an instrument codifying international law had endorsed the customary law in force at the time, which had consisted of a series of unilateral acts by States, the first being the 1945 Proclamation by the President of the United States of America.

The question of the limits of the continental shelf and the limits of the territorial sea, the contiguous zone and fishing and security areas could not be considered separately, since the physical and legal relationships between all those areas were, of necessity complementary to or overlapped one another. His delegation consequently urged that all topics connected with the questions of limits should be examined together by Sub-Committee II.

The priority given to the establishment of the international régime was based on the actual texts of General Assembly resolutions 2574 A (XXIV) and 2750 C (XXV). The wording of operative paragraph 1 of the former clearly showed that the review of the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas should be undertaken after the definition of the "international régime to be established" for the area beyond the limits of national jurisdiction. Operative paragraph 2 of resolution 2750 C (XXV) clearly indicated that the proposed conference on the law of the sea should "deal with the establishment of an equitable international régime - including an international machinery - " before passing on to the definition and related topics; and the same order of consideration was also implicit in the seventh preambular paragraph.

2/ See United Nations, Treaty Series, vol. 499, p. 311.

The question of the peaceful uses of the area was a matter which the Committee had borne constantly in mind. The exploration and economic exploitation of the sea-bed and ocean floor - including the international machinery - pursuant to the Declaration of Principles Governing the Sea-Bed and the Ocean Floor were essentially peaceful activities. If that type of peaceful use had now begun to assume a special importance as a subject with intrinsic characteristics which had not yet been dealt with in the Committee's work, it was perhaps because an attempt was being made to consider them from a particular angle, very probably connected with the disarmament problem. If that were the case, his delegation would like to point out that there was a body which had been expressly requested to deal with the problems of disarmament and armaments control. If the Committee undertook a detailed study of measures for the disarmament of the sea-bed and ocean floor, there would inevitably be duplication; moreover, any new measures it might propose would undoubtedly be very limited in scope, since the question had political and strategic aspects that were related to other disarmament measures which were outside the Committee's competence. All delegations should, of course, be able to express their views on a question of such importance for the security and survival of the peoples of the world, but his delegation would have serious reservations concerning any ttempts by the Committee to arrogate to itself powers which it did not possess. His delegation would in due course indicate which of the Sub-Committees it thought should deal with the question.

It considered that the preparation of draft articles on the rest of the questions relating to the law of the sea, which fell within the sole competence of Sub-Committee II, should not begin until the full list of those questions and subjects had been completed. It was essential to proceed methodically, and it would be useless to prepare drafts which would later have to be revised entirely because they did not take account of important subjects subsequently added to the initial list. Furthermore, an immediate start on the preparation of draft articles would be contrary to the terms of the General Assembly resolutions. Certain attempts to prepare articles on some extremely precise and well-defined points, reflecting interests which were equally precise and well-defined, had not been successful. The General Assembly had chosen the opposite solution both in the second preambular paragrahh of its resolution 2574 A (XXIV), in which it observed that the problems were closely linked together, and also in operative paragraph 1 which derived from the second preambular paragraph. When the Secretary-General, in pursuance of operative paragraph 1, had ascertained the views of Member States, the majority had opted for a very comprehensive conference.

Moreover, in its resolution 2750 C (XXV), the General Assembly had reaffirmed "that the problems of ocean space are closely interrelated and need to be considered as a whole" (fourth preambular paragraph) and had instructed the Committee to prepare at its sessions in Geneva "a comprehensive list of subjects and issues relating to the law of the sea [...], which should be dealt with by the conference, and draft articles on such subjects and issues" (operative paragraph 6). Nevertheless, some delegations still maintained that the problems to be considered were restricted to three: the limits of the territorial sea, international straits and fisheries. If the Committee were to adopt that approach, the General Assembly resolutions would remain a dead letter and discussion would have to be re-opened on matters which had already been settled.

Mr. GREKOV (Byelorussian Soviet Socialist Republic) said that he hoped the Committee would conduct its work in a spirit of mutual co-operation with a view to solving the difficult problems confronting it.

One of the most difficult tasks was the elaboration of an equitable international régime - including an international machinery - for the area and resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction. The scope, nature and details of the issues to be resolved in that connexion could be present be defined only in general terms, since they were still being actively studied. In his country's opinion, however, the future treaty should regulate the activities of States only in respect to the exploration and exploitation of the mineral resources of the sea-bed and ocean floor and the subsoil thereof.

It would also be necessary, if such exploitation was found to be economical, to protect the reserves of the area against the greed of the imperialist monopolies. If the treaty provided for the establishment of an international machinery, it would be essential for it to include provisions based on operative paragraph 3 of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor [General Assembly resolution 2749 (XXV)] which stiupulated that "No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources" in order to prevent the international machinery from engaging in the exploration and exploitation of the mineral resources of the sea-bed and ocean floor on its own account or from trying to assume jurisdication over the area and its subsoil and mineral resources.

His delegation thought it was also sssential for the agreement to include provisions permitting any country, without any discrimination, to exploit the sea-bed and ocean floor within the framework of the international régime. The development of

international co-operation in all fields, and especially in major fields such as the conquest of outer space and the exploitation of the oceans for peaceful purposes, was inconceivable if the principle of non-discrimination was not accepted.

The Byelorussian SSR had already taken an active part in meetings on the law of the sea and had signed and ratified the Convention on the High Seas, the Convention on the Continental Shelf and the Convention on the Territorial Sea and the Contiguous Zone, which it regarded as important international instruments.

As was clear from General Assembly resolution 2750 C (XXV), the question of the establishment of an equitable international régime - including an international machinery - was closely linked to the question of the precise delimitation of the area of the sea-bed and ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction and many other questions regarding the régimes of the high seas, the continental shelf, the territorial sea and the contiguous zone. There was an excellent basis of international law for studying those questions - namely, the Geneva Conventions of 1958, which codified rules and principles that had been developed over a century. Taking those Conventions as its basis, the Committee would have to determine exactly the outer limits of the continental shelf and the maximum breadth of territorial waters and to prepare appropriate recommendations on a number of subjects such as freedom of scientific research and prohibition of contamination of the marine environment.

With regard to the limits of the territorial sea, he pointed out that under the present international practice - observed by more than 90 Governments, i.e. the overwhelming majority of coastal States - the breadth of the territorial sea was between three and twelve nautical miles. In his opinion, it would be reasonable to adhere to that practice and fix the limit at twelve nautical miles, which should satisfy the interests not only of many coastal States but also of land-locked countries.

The Byelorussian SSR shared the concern of the majority of countries regarding the present tendency to extend national jurisdiction over increasingly large areas, and it believed that any prevarication in dealing with that question might seriously damage relations between States and gravely jeopardize international co-operation in the elaboration of the régime of the sea-bed and the ocean floor.

At a time when endeavours were being made to regulate the activities of States on the sea-bed and the ocean floor, the status in international law of the high seas - of which the sea-bed and ocean floor formed a part - should be duly taken into

consideration and respected. Freedom of navigation was of great importance for international economic relations, since 60 per cent of goods traffic was carried by sea. Peace on the oceans was therefore a factor of major importance for the establishment and expansion of the economic relations of the developing countries, and also for the safety of international communications.

On the other hand, a quarter of the States Members of the United Nations had no sea-coast and it was therefore essential to consider ways of protecting their interests both in regard to the sea itself and the possibilities of exploiting its resources, and as regards right of free access, right of passage, etc.

If the tendency to extend the territorial sea was generally adopted the principle in the Declaration of Principles to the effect that the sea-bed and the ocean floor and the resources of the area were the common heritage of mankind would become a dead letter and there would be nothing left to exploit but a small remnant of the sea-bed and ocean floor consisting of inaccessible abysses and ridges.

The Byelorussian SSR wished by the foregoing examples to demonstrate the multiplicity of the problems and situations which the Committee had to tackle, and on which it should be firmly resolved to reach as broad an agreement as possible.

The régime of the sea-bed and the ocean floor should be defined in the light of the interests of countries large and small, developed and developing, maritime and land-locked. The exploitation of the sea-bed and ocean floor on a regional basis, which could place the countries of different parts of the world on a different footing, was not likely to ensure the "equitable sharing by all States in the benefits to be derived therefrom."

The Byelorussian SSR had been one of the sponsors of the draft - later adopted as a resolution by the First Committee at the twenty-fifth session of the General Assembly - concerning the adoption and opening for signature of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof. Signature of that instrument by a large number of States, including the Byelorussian SSR, was an important step towards the exclusion of the sea-bed and the ocean floor and the subsoil thereof from the arms race, towards the use of that area exclusively for peaceful purposes and towards the strengthening of international security; and it augured well for the conclusion of other agreements on the peaceful exploitation of the sea-bed and the ocean floor in the interests of all States.

Mr. DAVIS (Australia) said that his delegation thought that the enlarged Committee should act as a preparatory committee for the next conference on the law of the sea. In that context, it should remember that many countries which were not represented in the Committee would be present at the conference and their contributions should be taken into consideration. Since the conference would be dealing with practical matters of considerable economic importance, it would be regrettable if those countries were faced with a "take it or leave it" situation.

Most countries agreed that the law of the sea had significant gaps and stood in need of review. Australia acknowledged that that was true to a certain extent, but thought that the Committee should remember that there was already a substantial body of international law on maritime matters - for example the four Geneva Conventions of 1958 and the several conventions that had been drawn up at IMCO conferences. It was not necessary to reopen all of the matters that were at present regulated by the rules of customary international law. However, it was a fact that certain issues had emerged in recent years that called for an attempt to formulate new agreed international rules relating, for example, to a legal régime to govern the exploration and exploitation of the resources of the submarine area, the breadth of the territorial sea, the rights of transit by sea and air through international straits and the rights of coastal and other states in high seas fisheries beyond the territorial sea. The Australian delegation would also be prepared to examine proposals in other fields - for example, the preservation of the marine environment and the prevention of pollution of the sea.

With regard to the question of priorities, the Australian delegation accepted the view that the General Assembly, in resolution 2750 C (XXV), had given a certain priority to considerations of the régime and machinery. It thought, however, that there was an essential inter-relationship between most of the issues under consideration. At the conference itself, some sort of package deal involving give and take on all sides would appear to be the only way of achieving a broad measure of agreement. It should be a particular objective of the Committee to work persistently towards a consensus. Nevertheless, the Committee would perhaps not be able to submit to the conference a single proposal for the régime and the machinery; it might have to submit two alternatives, each having a substantial measure of support.

He thought that the Committee could leave aside for the time being the question of the limits of the area and give priority to the consideration of the régime and machinery.

An understanding had been reached that Sub-Committee II should begin to draft articles before completing its comprehensive list of subjects and issues. The Australian delegation was pleased at that understanding, because it felt that the list would have to remain open right to the time of the conference, in order to allow delegations to add to it any subjects that they might regard as important. It hoped that Sub-Committee II would begin work on the draft articles as soon as possible.

Finally, it did not think that the Sub-Committees should break up into working groups at the July-August session; they could perhaps constitute very small drafting groups, to crystallize into working texts the tenor of the views expressed in Sub-Committee discussion. Experience had shown the need for all members to take their full part in discussion and not be placed in the position of having to accept or reject the proposals of small groups which were not adequately representative.

The Australian delegation also stressed that, out of respect for the sovereign rights of States, the Committee should work towards the achievement of consensus - ultimately a consensus of those present at the conference itself. For that purpose, it should ensure that its work was thorough, so that the ground would be well prepared for successful multilateral action.

The meeting rose at 4.50 p.m.

SUMMARY RECORD OF THE FIFTY-THIRD MEETING

Held on Friday, 19 March 1971, at 11.5 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. JERBI (Libyan Arab Republic) said the statement in General Assembly resolution 2749 (XXV) that the area of the sea-bed and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, were the common heritage of mankind was a development of great importance because existing international law did not define the status of the area and its resources, nor whether it belonged to the international community as a whole or was subject to national appropriation. The Libyan delegation understood the adoption of the principle that the area and its resources were the common heritage of mankind, as implying that the international community recognized the urgent need to establish an international régime - including an international machinery - for the area and its resources, thus avoiding the emergence of a new form of colonial competition. With every year that passed without such an international régime, States under internal or external pressure would expand their interest in the area and its resources, which were the common heritage of mankind and the situation facing the world would become increasingly difficult to resolve.

In some major maritime States, a struggle was being carried on between politicians, jurists and individual organizations which were advocating that the whole continental margin, including the continental shelf, the continental slope and the continental rise, representing in total about 25 per cent of the total ocean floor, should be placed exclusively under national jurisdiction; in other words, that the continental margin should replace the continental shelf as the area of national jurisdiction. That was one reason why priority should be given to the question of establishing an equitable international régime - including an international machinery - for the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction. He agreed that precise determination of the limits of the area was necessary, but not that it was a prerequisite for the establishment of an international régime. The previous agreement on the establishment of the international régime would facilitate the task of determining the limits of the area.

Giving priority to the question of establishing the international régime should not prevent a thorough discussion of the limits of the sea-bed area, the outer edge of the continental shelf and the territorial sea; establishment of the international régime would itself determine the precise limits of those zones. Nor should the question of

agreement on precise limits delay progress in the definition of the legal status of the sea-bed beyond national jurisdiction. Outer space, the territorial waters and the continental shelf all had legal régimes although they had no internationally agreed limits.

General Assembly resolutions 2750 (XXV) and 2749 (XXV) were a clear direction that the development of the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction, and the use of its resources, should be undertaken in such a way as to foster the healthy development of the world economy and the balanced growth of international trade and to minimize any adverse economic effects caused by fluctuations in commodity prices resulting from such activities. Those resolutions reaffirmed the concept that the exploration of the area and the exploitation of its resources should be carried out for the benefit of mankind as a whole, taking into account the special interests and needs of the developing countries.

The economic implications of exploiting the resources of the area, mentioned in resolution 2750A(XXV) should be discussed thoroughly in Sub-Committee I. The question was a vital one for many developing countries, including his own, at a time when technological progress in marine exploration and exploitation could seriously affect the economic wellbeing of those developing countries whose economies depended on their exports of certain commodities.

In a note by the Secretary-General of 13 January 1971, it was stated that there was every reason to believe that petroleum resources under the sea-bed were even larger than those under land and that areas favourable for petroleum occurrences would be found adjacent to nearly every coastal nation in the world and in some parts of the deep ocean. It was also stated that between 17 per cent and 19 per cent of the world's total oil production and over 6 per cent of the world's natural gas production came from under the sea. Forecasts for 1980 indicated that between 30 per cent and 40 per cent of oil production would come from beneath the ocean. Such developments in the exploration and exploitation of marine resources were to be welcomed and encouraged. Further studies on the possibilities of technology in that field were needed, as well as studies on the profitability of investments. Special stress, however, should be placed on the possible economic implications for world markets and prices of exploiting the marine resources. Those views were, he believed, in keeping with many General Assembly resolutions, some of which had been mentioned. His delegation awaited with interest the proposed report by the Secretary-General under General Assembly resolution 2750A (XXV).

He endorsed the comments of the representative of Trinidad and Tobago (fiftieth meeting) on the training of nationals of developing countries in all aspects of marine

science and technology and sea-bed operations. It was essential for developing countries to be able to explore and exploit marine resources. The Libyan Arab Republic would be raising the question in the Governing Council of UNDP, of which it was a member.

Mr. AL-ANSARI (Kuwait) said that extension of the Committee's mandate to include all aspects of the law of the sea, in accordance with General Assembly resolution 2750(XXV), did not imply that the Committee had resolved all the questions pertaining to the area beyond the limits of national jurisdiction under its previous terms of reference. The Committee's main achievement had been the adoption by the General Assembly of resolution 2749 (XXV) embodying the Declaration of Principles governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction. Those Principles represented a compromise and should be embodied in the proposed treaty governing the area beyond the limits of national jurisdiction. They should be treated not as guidelines but as strict terms of reference to be faithfully observed.

A great deal of pioneer work had already been done on the question of international machinery, but the Committee had not yet selected the type it wished to see established. It would therefore have the task of defining the powers, functions and structure of such international machinery. His delegation would favour the establishment of strong machinery with comprehensive powers, on the lines described in part III of the Secretary-General's report (A/AC.138/23). No other type of international machinery could serve the purpose desired by the developing countries. The machinery should also have power to deal with all entities, whether subjects of international law or not; it should be able to operate independently or through and in co-operation with private enterprises or joint ventures, government enterprises or international consortia representing private or joint enterprises, as well as governmental and inter-governmental concerns representing different economic systems.

His delegation looked forward to a fruitful debate on the study to be submitted by the Secretary-General on problems arising from the production of certain minerals from the area beyond the limits of national jurisdiction, and their impact on the economic wellbeing of the developing countries. The Committee should formulate specific recommendations to minimize any adverse economic effects caused by fluctuations in commodity prices resulting from the exploitation of the resources of the area beyond the limits of national jurisdiction. Those recommendations should be a vital part of the proposed régime.

The régime itself should be based on certain fundamental concepts, of which the most important was the principle of the common heritage of mankind. Deriving from that principle and equally important were the concepts of the equitable sharing of benefits,

the exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction for the benefit of mankind, taking into account the special needs and interests of developing countries whether coastal or landlocked. It was also important to take appropriate protective measures against possible adverse effects on the economies of developing countries.

Many delegations had supported the view that priority should be given to the régime, including the international machinery and the economic implications. While he agreed in principle with that approach, he considered that the question of the régime and the definition of the area were two sides of the same coin and should be discussed and decided together; if for any reason that should prove impracticable, he would favour priority for the establishment of the régime. He shared the view expressed by the representatives of Ceylon and other countries that agreement on a memorandum of understanding on the international régime should enable the Committee to proceed with its work on the definition of the area.

He had spoken only on the area beyond the limits of national jurisdiction, which covered the Committee's previous terms of reference. His delegation was gratified to find that on most issues its position was the same as that of other developing countries, so it should be easier to find common ground for fruitful co-operation. His delegation hoped to make an effective contribution to the revision of all aspects of the law of the sea so as to eliminate historical inequalities and make the law of the sea the outcome of a truly representative process in which all members of the international community participated to create new norms of law and adapt existing ones to the new political, economic and technical realities.

Mr. OGISO (Japan) said that the rules governing maritime activities constituted an important part of international law, because the oceans had always served mankind in various fields of human activity, particularly in navigation, fisheries and the development of resources. The outcome of the forthcoming conference would therefore have an important bearing on the life of maritime nations and would affect the interests of every member of the international community. There was a common responsibility to act with wisdom and foresight so that the result of the conference would promote the interests of mankind as a whole.

General Assembly resolution 2750C (XXV) established broad terms of reference for the forthcoming conference and covered practically all aspects of the law of the sea, but there were two issues which his delegation considered of vital importance to the future of the international community: those were the question of the breadth of the territorial sea and the question of establishing an equitable international régime,

including an international machinery, for the area and the resources of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, together with a precise definition of the area.

The present confusion in the legal order of the sea was evident from the existence of various claims of national jurisdiction over the waters off the coast in one form or another. A very broad range of views had been expressed since 1969 when the General Assembly began the debate on the desirability of convening an early conference on the law of the sea; but it was striking that few countries denied the need for an early conference.

It might be asked why there was virtual unanimity on that question. The historic Geneva conference of 1958 had made an enormous contribution to the international community by codifying the customary rules of international law and establishing some new rules relating to the sea. Much of what had been accomplished at that conference remained valid. Certain issues, however, had been left unsettled, the most crucial being the breadth of the territorial sea. Moreover, the decade of the 1960s had raised additional issues and problems, particularly as a consequence of the rapid progress in science and technology. The international community had not been unwilling to cope with those problems, but its somewhat limited law-making capacity had failed to keep international law up-to-date with the new requirements of the changing world. Impatience and dissatisfaction had led some countries to resort to unilateral action which had further eroded confidence in the rule of law over international maritime activity so that the re-establishment of confidence was one of the essential tasks of the forthcoming conference. It could not be achieved unless the existing rules were adjusted and supplemented so as to accommodate the interests of all nations in a just and equitable manner.

However difficult the task, States should not evade their common responsibility and attempt to find an illusory substitute in unilateral action. It had been asserted in recent years that, in order to protect its economic and other interests, every State should be free to decide the extent to which national jurisdiction could be exercised over the waters adjacent to its coasts. It had also been argued that unilateral action was justified because the existing rules were unjust and the international community was too slow in making the necessary adjustments. His delegation recognized that the existing legal régime of the sea stood in urgent need of reform but unilateral extension of jurisdiction over the high seas was not the proper solution. Unilateral action by one State or group of States in disregard of the rights and interests of others was bound to provoke counter-action and consequent dispute among States. Such a situation

might even lead to a general tendency to disregard international law. His delegation therefore hoped that at the forthcoming conference on the law of the sea, all nations would co-operate in finding just and equitable solutions.

It would be a mistake to lay undue emphasis on the conflicts of interests between developing and developed nations, which only affected certain aspects of the issues involved. One example was the question of fisheries. The concept of exclusive jurisdiction over vast areas off the coast needed more careful study in view of the two characteristics inherent in the nature of marine living resources. The first characteristic was that, unlike mineral resources, marine living resources were being constantly reproduced. Exploitation under appropriate conservation measures did not result in a reduction in the size of stocks of fish, whereas omission to harvest part of those living resources would simply result in their waste. The second characteristic was that marine living resources and the productive capacity of oceans were not equally distributed round the world, due to various natural conditions such as currents and geographical features of the sea bottom. Scientific data assembled by FAO showed that there was considerable disparity in the distribution of living resources according to areas. In fact the large and lucrative fishing grounds of the world were to be found only in the vicinity of a very limited number of coastal States.

In recent years, many developing countries, particularly those which did not find large and lucrative fishing grounds off their coasts, had therefore been striving to promote their distant-water fishing, not only as a contribution to the development of their economy, but also in order to solve in part the problem of nutrition; for many of those countries fish was the most accessible source of supply of animal protein. Therefore, the extension of fisheries jurisdiction over the vast areas off the coast would not serve the interests of the international community as a whole. If all the rich fishing grounds of the world came to be placed under the exclusive jurisdiction of a limited number of coastal States adjacent to those grounds, the results would be detrimental not only to those nations at present engaged in distant-water fishing, but also to the developing nations which were trying to promote their distant-water fishing, taking advantage of their comparatively low labour costs.

Another major task of the forthcoming conference was the creation of a new legal régime governing exploitation of resources of the sea-bed beyond the limits of national jurisdiction. An important step had already been taken in that direction with the adoption by the General Assembly of the Declaration of Principles embodied in resolution 2749 (XXV). The Committee was now about to embark on the more difficult task of preparing on the basis of the declaration, draft treaty articles for adoption by the conference.

The task was a complex one because it involved a number of problems on which only the future would shed light and also because some important questions required the reconciliation of differing views among member States before specific provisions could be drafted. Since the régime was to govern the "common heritage of mankind", it was essential that such provisions should attract the widest possible support from States. Moreover, the subject as a whole was of such an urgent character that the preparatory work must be completed in time for the conference in 1973. The Committee should, therefore, adopt a pragmatic approach and avoid trying to draw up all the technical and administrative details. Efforts should be concentrated on the establishment of a régime, including international machinery, which would be sound and viable but would cover only such activities as required urgent attention; the scope of the régime could be enlarged later. His delegation therefore suggested that the Committee should deal with those aspects which were related to the exploration and exploitation of mineral resources of the sea-bed and the subsoil thereof since it was those resources which awaited exploitation for the benefit of the international community.

A particularly difficult question was that of the precise definition of the area to be governed by the new legal régime. It was difficult both from the point of view of substance and from that of procedure. In his delegation's view, any recommendation on the nature of the régime or on the type of machinery would be unrealistic unless it were accompanied by some assumption regarding the definition of the area to which the régime would apply. On the other hand, if recommendations on delimitation were made independently of the régime, it would be difficult to strike a fair balance between the interests of the international community and those of its members.

For his delegation, the primary consideration was the early establishment of the régime and machinery and the definition of the sea-bed area. If the general feeling in the Committee was that its task would be facilitated by putting the emphasis on the elaboration of the régime for the time being, his delegation would be prepared to subscribe to that procedure. It should, however, be borne in mind that the question of limits was inseparable from that of the régime and the two should be treated as a composite whole at a later stage.

Japan, as a country surrounded by the sea, had a keen interest in the prevention of marine pollution. In view of the magnitude of the threat to the marine environment represented by pollution, concerted efforts on the part of the international community were needed more than ever. The question of marine pollution was to be considered by the United Nations Conference on the Human Environment in 1972 and the Committee should therefore co-ordinate its work with that of the Preparatory Committee for that conference.

The success of the forthcoming conference on the law of the sea was of vital importance to all nations, irrespective of their geographical position or stage of development. His delegation therefore hoped that the present general debate would help all the members of the Committee to play a constructive role in the preparatory work.

Mr. DATCOU (Romania) said that the Committee was called upon to bring the law of the sea into conformity with the situation produced by the technical and scientific revolution.

First, it should be stressed that international action to regulate the exploration and exploitation of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction would not be taking place in a legal vacuum. Nowadays, all inter-State relations without exception were governed by the leading principles of international law embodied in the Charter of the United Nations and solemnly reaffirmed by the General Assembly in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations [resolution 2625 (XXV)]. Those principles required that any rules adopted on the matters entrusted to the Committee should be based on the universal rules of international law.

Secondly, the essential principle that the area in question must be reserved exclusively for peaceful purposes implied the prohibition, by treaty, of the utilization for military purposes of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction. Any extension of the arms race to that area would undermine international co-operation in the development of valuable resources for the benefit of all nations. A useful first step in that direction had been taken with the conclusion of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof. Romania, which had taken an active part in the formulation of that Treaty and had recently signed it, would continue to work for the final and complete exclusion of that area from the sphere of military activities.

Thirdly, it was imperative that the international régime should not in any way affect either the sovereign rights of the coastal States over their continental shelf and the natural resources in the area within the limits of national jurisdiction, or the recognized freedoms of the high seas.

Fourthly, to be viable, any regulations must be worked out with the participation of all the States concerned, and with the general agreement of those States. In the process, special attention should be paid to the needs and interests of the developing countries.

The resources of the area must be used in such a way as to promote the healthy development of the world economy and the balanced expansion of international trade, while keeping to the minimum the adverse economic effects of fluctuations in the prices of the commodities involved. The Committee should work on the basis that the sea-bed and the ocean floor and the subsoil thereof could not be appropriated by any State or other entity whatsoever.

International law should reflect the realities of international life and the strict observance of the legal principles and rules essential to the peace, security and progress of the world as a whole. Romania attached the greatest importance to the work of the United Nations in the codification of the law of the sea. In the forthcoming efforts, therefore, attention should be focussed on those problems which had been left unsettled, or which had not been adequately defined in the course of the Conferences on the Law of the Sea in 1958 and 1960.

One of those questions was the delimitation of the continental shelf and, hence the definition of the area of the sea-bed and the ocean floor and subsoil thereof beyond national jurisdiction. In this respect, it was important to define clearly the "special circumstances" affecting the delimitation of the continental shelf, and the conditions under which an island may be granted its own continental shelf. This category also included the breadth of the territorial sea, navigation in the straits for which there were no special conventions, fisheries, etc.

The seas and the oceans, the sea-bed and the ocean floor and the subsoil thereof constituted a vast reservoir of food and raw materials which the extraordinary progress of science and technology would make increasingly available to mankind. It was essential to maintain that source of wealth for the benefit of all nations. His delegation believed that the time had come for science and technology to be utilized directly for the conservation and development of the living resources of the sea and for their protection from depletion as a result of unrestricted exploitation. The utilization for peaceful purposes of the sea-bed and the exploration and rational exploitation of its resources had become a field in which the international community had a major responsibility to co-operate in the interests of the present and future generations.

In view of the magnitude of the task ahead, his delegation strongly felt that all States should be invited to the forthcoming conference and should participate in the formulation of the international instruments to be adopted. Only thus could those instruments attract the widest acceptance and thereby contribute to the promotion of peace and friendly relations and co-operation among nations.

The meeting rose at 12 noon.

SUMMARY RECORD OF THE FIFTY-FOURTH MEETING

held on Monday, 22 March 1971, at 10.20 a.m.

Chairman Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. JEANNEL (France) said that the positive law applicable to marine areas derived essentially from the needs of navigation. At first it had been only an extension of maritime law, but with the growing importance of fishing on the high seas, rules with a more specifically economic content had been formulated. Economic problems had taken on even greater importance with the discovery of the resources of the sea-bed and its subsoil. The adoption of the four Geneva Conventions of 1958 had marked an important stage in that development; however inadequate they might be, those Conventions were neither obsolete nor completely out of date, since they were the fruit of long reflection, consolidation and the formulation of many customary rules, most of which had not been seriously challenged.

Since their adoption, however, many countries had acceded to independence and therefore found themselves confronted with laws in the drafting of which they had had no part. For that reason, his Government had welcomed the decision by the General Assembly to set up an enlarged Committee with the task of preparing a new conference on the law of the sea [resolution 2750 C (XXV)]. In performing that task, two facts should be borne in mind. First, it was proper and necessary that the exploitation of the resources of the seas and oceans should be carried out in accordance with legal rules which took equally into account the aspirations and needs of all the members of the international community and, more particularly, of the developing countries. Secondly, it would be dangerous and contrary to the interest of all States if the new international economic law should lead to the excessive limitation, or even disappearance, of the greatest achievement of the old law, namely, the freedom of navigation which all States were acknowledged to enjoy, regardless of their geographic or political situation.

As he had already pointed out, the new law of the sea would be essentially economic in character. It would have to take into account two overriding necessities: first, that of respect for natural balances, in other words the protection of the environment in its broadest sense; secondly, the respect for economic balances, in other words the maintenance of satisfactory world market prices for commodities. At present, however, the most difficult problem was obviously that of determining the

exact distribution of tasks and profits among States, on the one hand, and the international community on the other, as represented by a body still to be created. It was in those terms that his delegation regarded the problem of limits: in other words, how far should States be allowed to act independently and at what point should they submit to the control of an international organization?

The results to be expected from the exploration and exploitation of the sea-bed and ocean floor were still so uncertain that it should not be left to the unilateral initiative of States to carve out for themselves an area in what had been recognized by all as the common heritage of mankind. Nevertheless, for two reasons, he did not think that the area to be left to States should necessarily be reduced to a minimum. First, coastal States, regardless of their political and economic system, had a natural right to explore and exploit an area of reasonable extent off their costs. In addition to that fundamental economic right, there were also reasons connected with the protection of the environment and considerations of national defence. Secondly, the area under national control could hardly be reduced to a minimum when neither the advantages nor the disadvantages of international control were as yet fully known. In that respect, his delegation shared the view of the majority that a very thorough study of the proposed international régime was needed before any estimate could be made of the real advantages which the international community might derive from it. A comparison of the various types of exploitation would undoubtedly lead to a sounder view concerning the extent of the area to be placed under the international régime. At present, it seemed clear that a system of direct administration by an international organization acting independently of States would arouse more fears than hopes. Fortunately, the Committee, basing itself on the Declaration of Principles [resolution 2749 (XXV)], had chosen the more realistic system of international co-operation within a multi-State framework. He hoped the Committee would continue its efforts in that direction, since that appeared to be the only way in which it could hope to secure general acceptance for its proposals.

With respect to mineral resources, the first proposal for an international régime submitted by his delegation in 1970 (A/AC.138/27) had not included the question of the limits of the continental shelf because the latter was a geological and geo-physical term which it would be impracticable to discuss in terms of law. After all, the continental shelf did not extend for the same distance beyond the coasts of all coastal States and was not everywhere of uniform structure. For that reason, his delegation would prefer to replace it by a more abstract but juridically more

satisfactory concept, namely, that of an area defined by the very simple criterion of distance from the coast. Secondly, with respect to living resources, it was essential to be realistic, to reject any formula which would result in a monopoly of resources by large industrial fleets and at the same time to reject any systems which would give rise to excessive interference with fishing activities.

The economic law of the sea must not lead to any abuse of sovereignty. His delegation did not share the view that nothing could be expected from traditional international law and that States would have to rely upon more or less arbitrary national law. On the contrary, if States were to be given fairly wide discretion to act on their own initiative, their rights would be all the better defined, recognized and protected by one or several diplomatic instruments.

He would be the first to admit that the conditions governing freedom of navigation should, in some respects, be clearly defined, if only to take into account the size, contents or mode of propulsion of modern vessels, which might be a danger to the marine environment. It was obviously necessary, however, that any restrictions of a technical nature which might be imposed on freedom of navigation should not be used to interrupt or interfere with maritime or air communications. It had been claimed that the power of those States which today possessed a strong industrial and maritime potential was largely attributable to freedom of navigation on the high seas. Was that any reason to refuse new States the same opportunities for growth, to deprive them of that essential tool for economic development? His delegation thought not. The truth remained that industrial growth, co-operation among States and international solidarity would depend today, as they would be dependent tomorrow, on freedom of the seas and of the air space above them. For that reason, complete national sovereignty over the sea should not extend beyond a reasonable limit consistent with freedom of navigation. Similarly, freedom of passage through straits should also be guaranteed for the ships of all States in accordance with strictly defined and enforceable international rules.

Lastly, it was obvious that any exploration and exploitation of the seas depended on a precise and extensive knowledge of the seas, whence the importance of scientific research and favourable conditions for scientific research. The first condition was the recognition of the principle of freedom, on as broad a basis as possible, but perhaps just as important was the improvement of training facilities for research workers and for making the results of research available to all. It was not easy to give a legal definition of scientific research, but, with a little goodwill and realism, it should be possible to find some satisfactory wording. In fact, goodwill, realism and prudence were what was needed to ensure a successful outcome to the Committee's labours.

Mr. SARAIVA GUERREIRO (Brazil), with regard to the future course of the Committee's work, said that so many important national interests of an economic, political and security nature were at stake that the Committee should always examine every position carefully, study all the available information, ponder every recommendation and resist the temptation to reach agreement for agreement's sake. It should also be on guard against two fallacies which had already to some extent marred its previous work. First, it should not succumb to the exaggerated promises of the enormous riches to be easily obtained from the sea-bed, since, even if agreement were reached on an international régime, it was highly unlikely that those promises could be fulfilled within the next ten to twenty years. Secondly, it should not succumb to the fallacy of foreseeing catastrophic consequences for mankind if no agreement on an international régime was reached the next day, the next month or even at the next session of the General Assembly.

With regard to the question of an international régime for the sea-bed and its resources, his delegation wished to make twelve points: First the scope of the régime should include, in one or more conventions, all the uses of the sea-bed, including military uses. Secondly, the régime should be universal, since it would be politically unwise to restrict it to certain sectors, however important, of the international community. Thirdly, an international agency should be established for the purpose of granting licences for the exploration and exploitation of resources to States or inter-governmental organizations of a universal or regional character and to enforce compliance with the conditions prescribed in those licences; the agency should be organized in such a way as to represent the interests of the international community as a whole, and should be capable of undertaking direct exploitation. Fourthly, States or the intergovernmental organizations should be able to grant licences to private operators, on the understanding that the latter would not have international personality and that the former would be internationally responsible. Fifthly, the procedures for the allocation of areas to States or intergovernmental organizations by the international agency should be based, inter alia, on the need to ensure access for all countries, including developing countries, to the exploration and exploitation of sea-bed resources. Sixthly, allocations should be so controlled as to ensure that they had no adverse effects on the prices of commodities obtained from the land. Also some safeguard should be devised to ensure that developed countries did not discriminate in their domestic legislation in favour of the products of their national companies operating in the international area of the sea-bed. Seventhly, the treaty to be drawn up should lay down what royalties were to be paid

to the operator and should not leave that task to the international agency, since otherwise it would be impossible for the international community to make even a rough estimate of the benefits likely to accrue to it. At the same time, it would be useful to have a study prepared by the Secretariat of the criteria used in municipal law for the calculation of royalties on minerals extracted from the continental shelf or from the land. Eighthly, the treaty should also include a system of allocation of benefits, the contents of which would be discussed and negotiated, under which the international agency would distribute direct to States members the benefits accruing to them. Ninthly, the treaty should regulate the exercise of freedom of scientific research in the area. Tenthly, the treaty should also define the rights of coastal States as regards measures to prevent, mitigate or eliminate grave or imminent danger to the area under their jurisdiction; the responsibility of States and international organizations in that respect should be strictly regulated. Eleventhly, the treaty should define precisely what was understood by the living resources of the sea-bed. Lastly, the treaty might include a flexible system of arbitration, on the basis of ad hoc groups.

The area would not necessarily have to be delimited in the treaty embodying the régime; that might be done in other instruments. Delimitation should be based on distance, taking into account geographical, geological and economic peculiarities; the depth criterion was too complex for the daily requirements of operators who needed an easily ascertainable limit. With such a criterion, the majority of countries, whose marine technology was still in an early stage, would be in a difficult position to ascertain and to prove violations of their national limits. Only in exceptional cases, when the continental shelf clearly extended beyond the distance accepted for the region, should the use of a depth criterion be envisaged.

Another task confronting the Committee was that of delimiting maritime areas, a problem which had remained unsolved since the days of the Conference for the Codification of International Law (The Hague, 1930). The reasons for that were clear enough: the law of the sea was perhaps the province of international law most affected by the impact of technological, economic and security changes. The changes which the world had been experiencing since World War II were undeniably of a revolutionary character. To those changes should also be added the emergence into international life of a great many important new States, most of them with great actual and potential interests in the sea. For that reason, the General Assembly had expressed itself in favour of a conference dealing not only with the establishment

of an equitable international régime for the sea-bed and its resources but also with a broad range of related issues, including the régime of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation, the preservation of the marine environment and scientific research.

Of course, the mandate of the Committee and of the future conference should not be interpreted as authorizing the total revision of the law of the sea; but rather as calling for the filling of gaps and the re-examination of specific issues in the light of present-day needs. Furthermore, in speaking of the law of the sea, care should be taken not to equate it entirely with the 1958 Geneva Conventions, since the latter all included provisions which might justifiably not be regarded as international rules of a general character but only as ius inter partes. His delegation was at a loss to understand the argument that some conventions, such as the Convention on the High Seas, being a codifying convention, should remain untouched, when article 35 of the Convention itself established the machinery for its revision.1/ Even the High Seas Convention, which for the most part might be said to have incorporated international law, was not necessarily sacrosanct, if serious reasons could be shown for revising or refining the rules in the matter. For example, article 2 might be revised and given more precision because too much had been read into it and too many freedoms discovered, which had not even been thought possible at the time of its drafting. Some delegations even justified the freedom of exploration and exploitation of sea-bed resources on the basis of article 2, taken together with article 24 of the same convention. And it was even suggested that such freedoms precluded the adoption by developing countries of measures for increasing the participation of their merchant marines in transporting the freight created by their own international trade.

Confronted with the ever-increasing pace of technological change, the law of the sea had not responded as fully and promptly as necessary. To take only the question of the limits of maritime areas, no uniform rule could be established. None was established by international law, and only by stretching the facts could it be claimed that the three or the six or the twelve mile limit represented international law. Since there was no rule defining the limits of national jurisdiction, the coastal State was free to define such limits within reasonable boundaries, and with regard to geographical, geological and biological conditions. Indeed for many years past one group of States had claimed a national jurisdiction extending to 200 miles and their claim had met with only a few scattered protests which were not representative of the international community as a whole.

1/ See United Nations, Treaty Series, vol.450, p.100.

The technological changes connected with the military utilization of maritime areas represented as serious a challenge to the progressive development of the law of the sea as the economic one. Those changes were sufficient reason for coastal States to establish regulations governing freedom of approach to their coasts. It would be inadmissible if, under the principle of the freedom of the seas, the even more fundamental principle of national sovereignty and the inherent right of self-preservation were impaired. He suggested that the working paper prepared by the Secretariat on the military uses of the sea-bed and the ocean floor beyond the limits of present national jurisdiction (A/AC.135/28) should be not only brought up to date but also expanded in order to include an analysis of the military uses of the seas, their present state and foreseeable technological advances.

With regard to scientific research, it was not always possible to distinguish between pure research and research for economic or military purposes. In the last analysis, every particle of scientific knowledge could be translated into terms of economic gain or national security and, in a technological society, scientific knowledge meant power. Consequently, it was imperative that coastal States should exercise some form of control over scientific research off their coasts, even when it was carried out under the auspices of purely scientific institutions. That such control was necessary was well exemplified by the Convention on the Continental Shelf (Geneva, 1958),[2/] which could not be suspected of excessive tolerance with regard to the rights of coastal States.

The need for new rules of the law of the sea concerning the exploration and exploitation of the resources of the continental shelf had become evident during the years following World War II. The sixties had confronted the international community with the new challenge of the sea-bed and with more sophisticated means of using the sea for military purposes. The extension of national jurisdiction to 200 miles was the natural response of exposed coastal States to the two requirements of economic development and national security, and should not be interpreted as a threat to the freedom of the seas, in particular, to freedom of navigation; the latter was safe-guarded by the same national legislation that had adopted the 200-mile limit. What was more important, it was also based on the interest of all nations in the expansion of international trade as a prerequisite for increasing levels of economic development. The countries which had claimed 200 miles as the limit of their jurisdiction were the

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2/ Ibid., vol.499, p.311.

same countries which, in UNCTAD, were in the vanguard of the fight for the liberalization of international trade and for the establishment of equitable rules to govern trade relations between the developed and the developing countries. It would be ironical indeed to attribute to them an intention to impede or interfere with freedom of navigation. What commercial shipping needed was merely the right to sail from one port to another port by the safest and most direct route and to take shelter in an emergency; that was the right of innocent passage. Only activities relating to research, information, exploitation or fishing required more than that, and since such activities were obviously of fundamental importance to the economy and security of the coastal State, they should not be carried out without its consent.

Mr. MOJSOV (Yugoslavia) said that scientific and technical progress had led to an exploitation which amounted to a devastation of the living resources of the sea, to a growing deterioration of the environment, and to increased security risks for coastal States. The traditional rules of the law of the sea no longer afforded protection against all those threats and certain States, which thought themselves more threatened than others, had felt obliged to take unilateral measures of protection against the abuses of modern technology. Although his country had not taken such action itself, it realized that such unilateral measures were not arbitrary but were justified because, without them, the vital economic and political interests of the countries concerned would be in jeopardy. Such unilateral measures, which were not disproportionate to the dangers faced by the countries concerned, were the only remedy at present available. They had become an international reality which should be taken into account.

The case of Iceland showed that it was not possible to solve contemporary problems merely by the automatic application of traditional principles of international law. Without the economic resources derived from fishing in the waters above the continental shelf, Iceland would simply not be habitable. The traditional freedom for all to fish everywhere would deprive that nation of its sole means of livelihood. It was doubtful whether even traditional international law could allow such a result. Clearly therefore, in addition to such leading principles of the law of the sea as freedom of navigation, it was necessary to take into account other principles of international law, and particularly the one which should prevail over all the others, namely, the right of every nation to live and develop.

Despite their attraction for lawyers, uniform solutions were not adequate in the present instance. It was necessary to assess the economic problems of certain regions which were dependent on resources situated beyond what might be regarded as the

reasonable limits of national jurisdiction, and seek appropriate solutions to enable the countries concerned to live and develop. The importance of the unilateral measures taken by certain countries was therefore such that his delegation felt that it could not request those countries even to discuss those measures, let alone renounce them, until an international régime had at least been outlined which offered them equivalent safeguards from the economic and security points of view.

As for the international régime, the principle of the "common heritage of mankind" set forth in operative paragraph 1 of rsolution 2749 (XXV), combined with operative paragraph 7 with its reference to "particular consideration" for "the interests and needs of the developing countries", showed that the sole rightful beneficiary of all the resources in question was the international community, and in the first place the developing countries.

The benefits which the exploitation of oil and minerals could bring to a country's economy were known. They included public revenue from royalties levied for the concession of exploitation rights; employment and the purchasing power derived therefrom; profits; State revenue from taxation and assured sources of raw materials for industry. It was therefore somewhat surprising that so far only the question of royalties had been mentioned in connexion with the benefits that should accrue to the international community, the sole beneficiary of the "common heritage of mankind". The question therefore arose of how to ensure that the other benefits also went to the rightful beneficiary. Naturally, the companies which exploited the resources were entitled to make profits; without such profits, they would not engage in exploitation. At the same time, a fair balance should be maintained between their interests and those of the international community and the national economies concerned.

In shaping the international régime, the developing countries should not be treated as mere passive beneficiaries of financial resources made available by the operating companies. The developing countries and the landlocked countries should be assured of some active participation in the exploitation of the sea-bed resources through financial participation and technical and industrial co-operation.

Great importance appeared to be attached to the question of the freedom of passage through, and flight over, straits that lay within the limits of a territorial sea of twelve miles. The question had been stressed by the United States representative (51st meeting) and was also mentioned by the USSR delegation in the list submitted by it to Sub-Committee II. To his delegation, that did not seem justified. Merchant ships already enjoyed the right of innocent passage; the question would therefore seem to refer to warships and submarines and it was doubtful whether any real justification could be adduced in that respect. There were of course certain straits

which formed the only link between two expanses of high sea. In those cases, and only in those cases, would it be possible to speak not of the freedom of navigation and overflight, but of a special régime which would permit passage while at the same time safeguarding the security of the coastal States.

Mr. KHAN (Pakistan) said that the Committee's task was to bring order into a domain where practically none existed. As a developing country with a long coastline and as a traditionally seafaring nation, Pakistan attached special importance to the Committee's task, while as a densely populated country, not richly endowed with natural resources, it was deeply interested in the quest for new resources for the economic and nutritional benefit of its people. Like other developing countries, it therefore looked to the sea-bed as a reservoir for the benefit of all mankind.

The differences of approach between the various developing countries due to geographic considerations were mere nuances; they faded into the background in the face of the very real differences between countries which had the capacity to exploit the sea-bed and ocean floor and those which did not have that capacity. The developed countries were able to launch satellites to identify the areas where fishing would be most lucrative; they possessed factory ships and sophisticated devices for offshore drilling for mineral resources. The gulf between them and the developing countries was nowhere greater than on the ocean. His country therefore earnestly hoped that the rights and aspirations of the developing countries would be respected in the task before the Committee. A strong and viable international régime and machinery were therefore of cardinal importance.

His delegation interpreted the use of the term "priority" to mean that priority must be given, in both time and emphassis, to drawing up the essential elements of the régime, including international machinery. Those essential elements should be: first, the jurisdiction that it would exercise over the international sea-bed area; secondly, the comprehensive powers and functions with which it should be vested; and thirdly, the basis on which the equitable sharing of the sea-bed resources would take place. Only after the essentials of the régime had been articulated would it be possible for his Government to take a final position on the question of territorial jurisdiction. In view of the clear inter-action between the establishment of an effective régime and the extension of national jurisdiction, it was logical that priority should be given to the formulation of the essentials of the international régime and machinery by Sub-Committee I. That did not preclude other Sub-Committees from referring, where relevant, to matters relating to that régime and machinery.

In his delegation's view, the question of limits fell within the legitimate province of both Sub-Committees I and II, each in relation to its mandate; the mandates of the two Sub-Committees were actually linked by the question of limits. The drafting of treaty articles and the formulation of recommendations on limits, however, should be entrusted to Sub-Committee II.

His delegation agreed with that of Ceylon (47th meeting) that Sub-Committee II should be entrusted with the drafting of articles before a final list of subjects was drawn up. It was, however, for the Sub-Committee to decide whether, before it began drafting articles, it should have before it a comprehensive list of subjects, which might of course not be complete.

He agreed with the representative of Trinidad and Tobago (50th meeting) that the question of the peaceful uses of the sea-bed must be discussed, regardless of which Sub-Committee the question was allocated to. He also agreed that there was an urgent need to train technicians from developing countries in marine science and technology.

With regard to the growing dangers of marine pollution, his delegation hoped that close co-operation between Sub-Committee III and the United Nations Conference on the Human Environment (Stockholm) would lead to positive results.

In conclusion, he must stress the importance of the time factor in the Committee's endeavours to cover enough ground to ensure the success of the Conference on the Law of the Sea in 1973. Should there be undue delay in the Committee's deliberations, there was a danger of anarchy in the oceans and of a rush to appropriate its resources by those countries that had the capacity to exploit them.

Mr. ALLOUANE (Algeria) said that the exploitation of the sea-bed and the ocean floor, and the subsoil thereof, was one of the most important questions with which the United Nations had had to deal since its inception. The arduous negotiations on procedure at the beginning of the present session showed the extent of the cleavage of interests between the developed and the developing countries.

Once again, the territorial seas and continental shelves of the countries of the Third World were being eyed greedily, just as their lands had been in past centuries. For the only sea areas around which the present discussion centred were those of the Mediterranean and of the oceans which washed the coasts of countries belonging practically exclusively to the Third World: under a number of international agreements, the seas north of the 40th parallel had become the exclusive property of the coastal States as regards both fishing rights and the exploration and exploitation of the resources of the sea-bed and the subsoil. The division had been carried out on the basis of legal rules and economic considerations which were now not accepted where the developing countries were concerned.

Thus, the developing countries were being told by certain developed countries that the continental shelf should not extend beyond the 200-metre isobath; and yet the North Sea, the Baltic and the Adriatic, with depths of 2000 metres and more, had been purely and simply declared to be the property of the coastal States under the agreements to which he had referred. Again the developing countries were being urged to accept a maximum breadth of twelve miles for the territorial sea. In fact, neither that figure nor the 200-metre isobath limit for the continental shelf took into account the fundamental economic interests of the developing countries, either in fisheries or in sea-bed resources.

Those limits were being advocated on the grounds that uniformity was necessary in the law of the sea in order to prevent "anarchy". In fact, such anarchy as there was was simply due to failure to observe the rules of law - national, regional and international. Those rules were being violated by certain Powers which were at present engaged in what amounted to the looting of the living resources of the sea off the shores of the developing countries. Similarly, in defiance of General Assembly resolution 2574D(XXIV) which declared that, pending the establishment of an international régime and international machinery, States "are bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction", some States had not hesitated to grant licences to certain companies for the exploration and exploitation of that area. In the view of the Algerian delegation, the delimitation of the territorial sea was a matter which fell exclusively within the jurisdiction of the coastal State. The present trend to broaden the limits of the territorial sea was not inspired by any considerations of national pride, as had been suggested by certain writers, but by a desire to meet the growing economic needs of the peoples of the Third World.

With regard to the continental shelf, the claim that its outward limit should not reach beyond the 200-metre isobath failed to take into account the criterion of exploitability expressly laid down in articles 1 and 2 of the Convention on the Continental Shelf (Geneva, 1958).[3/] Certain developed countries had nevertheless claimed that, since the developing countries lacked the technological means to exploit the resources of the sea-bed beyond the 200-metre line, they ought not to claim such wide areas of continental shelf. Lack of means, however, could hardly be used as an argument against a State which was exercising its sovereign rights.

3/ Ibid., pp.312 and 314.

Only the observance by all countries, and particularly by the Great Powers, of the rule of law at the national, regional and international levels with respect to the territorial sea, fishing rights and conservation zones, the continental shelf and freedom of peaceful navigation on the high seas, would make it possible to avoid anarchy and international tensions. Those same Powers should cease to defend the viewpoint of the large companies and their selfish interests and instead should co-operate with the developing countries in establishing an international régime and machinery consistent with the Declaration of Principles contained in resolution 2749 (XXV).

The documents submitted by certain Powers and included in the Committee's report[4/] had not dispelled his delegation's misgivings. The present race to appropriate vast expanses of the sea-bed on the part of large companies in order to exploit the wealth of the sea-bed and its subsoil could only increase his delegation's concern. An analysis of those documents showed their analogy, as regards underlying principles, with such international instruments as the Treaty of Berlin of 1885 which enacted the partition of Africa by ruthless colonial powers. Such an approach was now no longer possible; the developed countries and the countries of the Third World had met at the present session to co-operate in the establishment of an international régime and of international machinery which would answer the needs of the developing countries in accordance with resolution 2749 (XXV). The developing countries were united in the defence of their economic interests and none would agree to participate in the formulation of a document which could have no other purpose than the ultimate colonization of the sea-bed and the ocean floor.

The notion of the "common heritage of mankind" needed clarification. The present generation in the Third World had not forgotten that colonialism and its concomitant exploitation had been imposed in the name of civilization. They would never agree to the concept of the "common heritage of mankind" being used to restrict national jurisdiction over the territorial sea and continental shelf of the developing countries.

The large companies were no more likely now than they had been in the past to pay heed to the interests of humanity, still less to those of the developing countries.

4/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021), annexes V - VII.

The present dispute between the petroleum-producing countries like Algeria and the large oil companies showed how difficult it was for those countries to get their partners to admit their legitimate right to regain control over the natural resources of their own subsoil, although national sovereignty over such resources had been repeatedly affirmed by General Assembly resolutions and had become a rule of international law. The scope of the conflicts likely to arise in future from the exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof could therefore well be imagined; whence the need for clarification of the concept of the "common heritage of mankind".

In order to conform with the Declaration of Principles embodied in resolution 2749 (XXV), the international machinery should be endowed with powers of administration and control of the international area and not merely entrusted with the task of registration and of issuing licences for research and exploitation. The international machinery should plan the exploitation of the resources of the area in order to avoid harmful repercussions on the selling price of the mineral resources of the developing countries, particularly oil, natural gas, manganese and copper.

Decisions by the international machinery should be taken in close co-operation with the regional and sub-regional organizations which already existed or which might be established for that purpose. The preferential rights of the coastal States, particularly the developing countries, should also be taken into account. Those preferential rights related not only to technical assistance but also included effective participation in scientific research, and in the exploration and exploitation of the sea-bed and the ocean floor adjacent to their coasts.

The régime and the international machinery, including the economic implications, should of course have priority, in accordance with the Committee's decisions and should be the subject of draft treaty articles. That was particularly important in order to stop the rush for the riches of the sea-bed and the ocean floor and the subsoil thereof, which in certain regions had already started. The Algerian delegation was ready to co-operate in drawing up a régime and an international machinery, taking account of the special interests of the developing countries and in accordance with the Declaration of Principles in resolution 2749 (XXV) and with resolution 2750 (XXV). Any other formula, such as that advocated in the documents submitted by some of the major powers, might well give rise to insuperable difficulties and even to conflicts.

In order to avoid such conflicts he would appeal once more to the developed countries - some of them in particular - to forget their selfish interests and to co-operate in setting up an international régime and machinery which would be fair and would take into account the interests of the developing countries.

Algeria was a developing country belonging to the Group of 77, now 91, all of them immersed in a bitter struggle for their economic and social development and the wellbeing of their peoples. It would be regrettable if certain powers continued, as they had done in the past, to defend the interests of the big national and international companies, contrary to the principles of the resolutions he had quoted.

He was confident that the developing countries would do everything in their power for the common defence of their sovereignty over the territorial waters and the continental shelf and of their security and economic interests which were directly threatened. Indeed, it would seem desirable that the developing countries should adopt a joint position on the question of the sea-bed and the ocean floor and the subsoil thereof.

Mr. NATORF (Poland) said that Poland had taken part in the work of the Ad Hoc Committee and the Committee of 42 members and now approached the task of the expanded Committee with an open mind. It had demonstrated its spirit of compromise during the informal discussions on the organization of work and, in order to facilitate agreement, had not pressed its preference for two, rather than three sub-committees.

The question of the organization of work should be approached pragmatically in order to ensure maximum efficiency, but some of the views expressed on the problem of priorities were not compatible with efficient organization and if accepted might create additional obstacles to the fulfilment of an already difficult task. Some urgent and controversial questions such as the question of limits, including the precise definition of the outer limit of the continental shelf, and the questions of the breadth of the territorial sea and of the fishing zone could not be avoided; they would have to be discussed frankly, negotiated and resolved by debate and decision. The main Committee and the three Sub-Committees should therefore work simultaneously and start their substantive work as soon as possible. The problem of so-called priorities should not be used as an instrument to hamper substantive work on controversial but important issues.

With regard to particular issues, his delegation considered that the problem of the precise definition of the area should be allocated to Sub-Committee I; that was the only reasonable allocation. In preparing draft articles on the international régime,

including an international machinery, Sub-Committee I should be free to deal as well with the limits of application of the régime. His delegation approved the understanding that any Sub-Committee should be allowed to consider the precise definition of the area in relation to the items assigned to it, but considered that only Sub-Committee I should be empowered to make recommendations on that issue, in other words, to prepare draft articles.

He endorsed the understanding that Sub-Committee II might decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea, but would urge that it should start on its substantive work as soon as possible and not spend too much time on the list.

The one outstanding procedural problem was the allocation of the question of peaceful uses of the area. His Government attached great importance to the question of reserving the sea-bed and the ocean floor and the sub-soil thereof exclusively for peaceful purposes. An important step in that direction had been the adoption of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and Ocean Floor and in the Sub-soil Thereof. Since Poland had always pleaded for the total prohibition of any military activities in that area, and since article V of the Treaty provided for the continuation of negotiations on further measures in the field of disarmament and for the prevention of an arms race on the sea-bed and the ocean floor and in the sub-soil thereof, his delegation considered that the Committee had a part to play in the preparation of further steps towards demilitarization of the area. Although his delegation had a slight preference for assigning the question of peaceful uses to the main Committee, it would accept its assignment to Sub-Committee III in order not to delay the start of work.

Sub-Committee III should deal with the important issues of preservation of the marine environment, including the prevention of pollution and scientific research. Other international organizations in the United Nations system were already active in those fields, including IMCO and IOC, and under operative paragraph 13 of General Assembly resolution 2750 C (XXV), those and other international organizations were invited to co-operate with the Committee in implementing that resolution and preparing scientific and technical documents required by the Committee. The Committee would do well to make some appropriate arrangement which would enable it to take advantage of the experience of IMCO in the prevention of pollution.

One of the most urgent problems facing the Committee was the question of the breadth of the territorial sea and the fishing zone. Some representatives had displayed great eloquence in their advocacy of their countries' interests, but in so doing had presented a rather one-sided and over simplified picture. The reality was more complicated, as other speakers had already pointed out. By extending the territorial sea and the exclusive fishing zone, not all and not only the developing countries would be favoured, but only countries with rich offshore fishing grounds, whether developing or developed. The extension of the exclusive fishing zone did not necessarily imply either the conservation of the biological resources of the sea or their rational exploitation. It might even result in smaller catches on important fishing grounds if foreign vessels were prohibited from fishing where the fishing industries of coastal States were not developed enough to make the optimum catch. Moreover, the excessive unilateral schemes made by certain States might provoke international friction and give rise to international disputes.

In order to find an equitable and just solution which would accommodate the interests of all countries, it was necessary to secure a balance between the interests of different countries - those interested mainly in coastal fisheries and those which had no rich offshore fishing grounds and consequently had to exploit high seas fisheries. In the juridical sphere a balance had to be found between the principle of the exclusive fishing right of the coastal State in its territorial sea and exclusive fishing zone, on the one hand, and the principle of the freedom of the high seas, on the other.

The question of the breadth of the territorial sea and exclusive fishing zone had never been a matter solely within the domestic jurisdiction of the coastal State. The International Court of Justice had made the position clear in its judgement of 18 December 1951 in the Fisheries Case between the United Kingdom and Norway when it had stated: "The delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal State as expressed in its municipal law".5/ In the opinion of the Court the validity of the delimitation of the sea areas with regard to other States depended upon international law; in other words, the limits fixed by the municipal law of the coastal State must be in accordance with the maximum limit permitted under international law. In the opinion of his Government the 12-mile limit constituted that maximum limit for the territorial sea and the exclusive fishing zone and that limit was adhered to by the overwhelming majority of States. Poland had maintained that view at the 1958 and 1960 Geneva conferences and, along with many developing countries, had voted for the inclusion of the 12-mile limit in the Geneva Conventions.

5/ I.C.J. Reports 1951, p. 132

Although it was an advocate of freedom of fishing on the high seas, Poland was ready to work for the development of international co-operation in conservation and in the rational exploitation of high seas fisheries based on scientific data and already participated in a number of fishing organizations and agreements. In its opinion, the problem of the rational and orderly exploitation of international fisheries could not be resolved by unilateral claims of coastal States.

Mr. JACKSON (Food and Agriculture Organization of the United Nations), speaking at the invitation of the Chairman, said that he wished to review briefly significant developments that had occurred with respect to sea fisheries since the first Conference on the Law of the Sea in 1958; it would be premature to proceed with substantive considerations until the Committee had decided what specific aspects of fisheries should be included in the agenda of the new conference on the law of the sea.

There had been a rapid development of world fisheries since the previous conference and production of marine fish including shellfish, had risen from 27 million tons in 1958 to 56 million tons in 1969. Problems of over-exploitation had intensified and had increased the need for conservation and management measures. In 1955, when the International Technical Conference on the Conservation of Living Resources of the Sea had met at FAO headquarters to prepare for the Conference on the Law of the Sea, virtually all fish stocks outside the North Atlantic and North Pacific had been either under-exploited or not exploited at all. Now there were few stocks of the types of fish readily caught and marketed which were not heavily exploited, some by large fleets of long-range vessels capable of fishing anywhere in the world. The number of countries involved in long-range fishing beyond their own coasts was also increasing and included, often through bilateral and multilateral assistance programmes, several developing countries. That trend, stressed by the representative of Japan (see 53rd meeting), was an important development since the 1958 Conference, since more countries with strong and sometimes conflicting fishery interests would take part in the new conference.

Although many of the more valuable stocks of fish were over-exploited, sometimes seriously, the living resources of the sea as a whole were still under-exploited. According to the FAO "Perspective Study on World Agricultural Development", the total demand for fish for human consumption and animal food was estimated at 74 million tons in 1975 and 107 million tons in 1985; that compared with an estimated potential from conventional marine species of a little over 100 million tons. The Perspective Study

emphasized the importance of management measures aimed at a more rational utilization of fish stocks, since the full potential could be achieved only if each stock was harvested at the optimum rate.

In recent years fishing had diversified into a wider range of species so that management had to take more account of ecological inter-actions between different species in the same region. It was also becoming more generally recognized that effective use of fishery resources required more than the maintenance of the yield from certain individual stocks at a high level.

The cost of harvesting resources should be kept low, particularly for developing countries with limited capital. Greater emphasis was being placed on economic considerations in management schemes formulated by governments, individually or in the framework of regional fishery bodies. In particular, it had become more widely appreciated that the introduction of certain restrictions on fishing would not necessarily be economically beneficial and that some limitation of entry into the fishery was required if fisheries were to be exploited to the greatest economic advantage.

Improvements and innovations in fishing equipment and methods and in fish handling and processing and the development of new products and markets had brought additional fishery resources within the range of commercial exploitation and led to important cost reductions; but technical progress was not always an unmixed blessing for fisheries, since it was accompanied by an intensification of exploitation.

The most important developments had probably been in fish location and particularly in the use of sonar in purse seining and aimed trawling. A number of new fishing gear and gear handling techniques had been adopted, such as mid-water trawls, mechanized devices for net handling, and fish pumps. The generalized use of synthetic fibres in net construction had also had a significant impact on fisheries development. New freezing and processing techniques made it possible to handle and store fish on board and a large fleet of freezer and factory trawlers had been built and equipped to operate anywhere in the world. Other characteristics of long-range fishery were mother-ship operations, with one large factory vessel supported by a number of smaller catchers and a world-wide network of fishing ports for unloading, bunkering, repair, or exchange of crews. In the traditional small-scale fisheries the most significant changes had been the use of synthetic fibres, the mechanization of small craft and the use of glass-fibre and ferro-cement as hull materials.

Recent developments in other uses of the ocean, including disposal of waste, and industrial exploration and exploitation of the resources of the sea-bed and its subsoil, affected fishery resources and fishing activities and increased the possibility of conflicts between the various uses. Consideration would have to be given to measures for minimizing harmful interference with fishing, especially that resulting from pollution - as mentioned by the representatives of Chile (48th meeting) and Iceland (49th meeting).

The magnitude, nature and distribution of the sea's living resources and the effects of fishing on them were much better known today than they had been in 1955. There was a better realization that, because of the migratory nature of many species, any fishing effort exerted on resources in areas under one national jurisdiction affected those resources under other jurisdictions and on the high seas, and conversely, whence the need for an integrated approach to the problem of management of the living resources of the sea.

Another important development since the 1958 Conference had been the establishment in 1965 of the FAO Committee on Fisheries, mentioned in General Assembly resolution 2750 C (XXV), an intergovernmental body which was the only global forum concerned with the development of fisheries. One of its main functions was to review international fishery problems and their possible solution, with a view to concerted action by nations or by other inter-governmental bodies. It was at present composed of 34 Member States of FAO, represented by their Directors of Fisheries or senior fishery administrators, and its sessions were attended by observers from an equal number of non-member States and from the international organizations concerned. The Conference of FAO was to consider at the end of 1971 a proposal to open the membership of the Committee on Fisheries to all interested FAO Member Nations. The Committee met annually and at its sixth session, to be held in Rome in April, would undoubtedly consider the results of the Committee's discussions with the greatest interest.

An increasing number of fishery management bodies was being established to cover specific areas of the high seas or particular species of living resources. Many had been set up since the 1958 Conference on the Law of the Sea - for example the Joint Commission for Black Sea Fisheries, the Northeast Atlantic Fisheries Commission, the Joint Commission for Fisheries Co-operation and the Japan-Republic of Korea Joint Fisheries Commission; the Regional Fisheries Advisory Commission for the Southwest Atlantic, the Fishery Commission for the Eastern Central Atlantic and the Indian Ocean Fishery Commission had been created within the framework of FAO; and FAO

had convened two conferences of plenipotentiaries which had adopted Covenants providing for the establishment, outside the framework of the Organization, of the International Commission for the Conservation of Atlantic Tunas and of the International Commission for the Southeast Atlantic Fisheries.

Those fishery commissions participation in whose work was entirely voluntary usually included all the coastal States in their respective areas and, in most cases, the other States fishing or carrying out research in those areas. That meant that more than 70 States had chosen to become members of one or several regional commissions in the common interest. Regional fishery bodies fulfilled a useful function in promoting and co-ordinating research and in ensuring the rational management of resources in their area of competence. As increased exploitation brought greater pressure on those bodies, methods of strengthening their efficacy, where necessary, could be considered.

Conservation and rational harvesting of the living resources of the sea raised problems which differed substantially from those relating to the exploitation of mineral resources. The promotion of international action to ensure the management of the renewable resources of the sea was one of the main responsibilities of the FAO Department of Fisheries and Committee on Fisheries. FAO therefore welcomed the invitation extended by the General Assembly, in operative paragraph 13 of resolution 2750 C (XXV), to co-operate fully with the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor, in particular by preparing such scientific and technical documentation as the Committee might suggest. It would also be glad to co-operate in implementing operative paragraph 11 of the resolution, requesting the Secretary-General to render to the Committee all the assistance it might require in legal, economic, technical and scientific matters, including the relevant records of the General Assembly and specialized agencies, for the efficient performance of its functions.

He had noted the specific suggestions and proposals made by several delegations on FAO's contribution, either in preparing documents or in being more closely associated with the Secretariat, and could assure the Committee that FAO was ready to meet its requests.

The meeting rose at 12.25 p.m.

SUMMARY RECORD OF THE FIFTY-FIFTH MEETING

Held on Monday, 22 March 1971, at 3.30 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

EXPRESSION OF SYMPATHY ON THE CATASTROPHE AT CHUNGAR (PERU)

The CHAIRMAN conveyed to the Peruvian delegation the Committee's sympathy and his own on the catastrophe in which the mining town of Chungar had been destroyed by a landslide.

Mr. ARIAS SCHREIBER (Peru) thanked the Chairman and the Committee for their sympathy, which had deeply touched his delegation.

GENERAL STATEMENTS (continued)

Mr. TOLENTINO (Philippines) said that the Declaration of Principles governing the sea-bed and the ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction, adopted by the General Assembly in its resolution 2749 (XXV) was destined to become the cornerstone of the international régime. It proceeded from the premise that, beyond the limits of national jurisdiction, there was an area - whose extent was yet to be determined - of the sea-bed and the ocean floor which, with its sub-soil and resources, was the common heritage of mankind.

The Philippines was vitally concerned with the meaning and scope of the expression "limits of national jurisdiction". It should be noted that General Assembly resolution 2749 (XXV) and 2750 (XXV) referred to "national jurisdiction" without limiting it to "national sovereignty", and that implied that the area beyond which the régime was to be established was more extensive than the territorial sea. The Philippines took the view that the term "limits of national jurisdiction" signified the existing limits, which varied considerably from one case to another, and not those which might subsequently be laid down by an international body.

The time when the three-mile limit had been universally applied was past and diversity was now the rule. Each State set the limits of its sovereignty and jurisdiction over the waters adjacent to its shores for reasons of security, economics, history, geography or because of other considerations. That was a reality which could not be ignored and which the international régime would have to take into account if it was to commanduniversal acceptance. The Philippines in no way advocated adoption of a permissive rule giving free rein to the unilateral initiative of States. Id did, however, demand that what was accomplished fact should be recognized: that States had set diverse limits to their zones of jurisdiction.

At the twenty-fifth session of the General Assembly, the Philippine delegation had expressed its firm belief in the rights of all coastal States to determine their sea

limits.[1] In the absence of a rule of international law - since the three-mile rule was long since dead and buried - it was the sovereign prerogative of every State to determine the outer limits of its jurisdiction as indicated by the requirements of national security and economic survival. That practice would continue to be lawful and justifiable until the international community had adopted a new rule rendering it illegal.

The Philippines had not lost sight of General Assembly resolution 2574 D (XXIV), which had been described as a "moratorium", but in view of the juridical status of that resolution - it was hardly more than a recommendation - and of the number of adverse votes and abstentions recorded at the time of its adoption, it could not prevent a State from extending its jurisdiction unilaterally if national interests so required. The next conference on the law of the sea ought therefore to adopt, for inclusion in a convention, a provision recognizing and confirming the existing limits of national jurisdiction of the various States, thereby fixing them so that they could not be unilaterally extended in the future. Unless that was done, there would be more unilateral extensions, and it would be naive to expect that any State would willingly withdraw from a limit already set.

The "multiple limits" formula might be criticized by some, but it was perfectly compatible with the second principle of the Declaration of Principles recently adopted by the General Assembly [resolution 2749 (XXV)], to the effect that "the area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof". That, of course, referred only to future appropriations of an area not yet appropriated or not yet subject to the sovereign rights of any State. It was legally inconceivable that the acquisition of what had already been acquired would be declared illegal or that a State would be prohibited from claiming or exercising sovereign rights over an area already under its sovereignty. On the other hand, since the prohibition on appropriation or the exercise of sovereignty referred to an area beyond the limits of national jurisdiction, the clear implication of the above-quoted paragraph was that the existing limits of the jurisdiction of States were recognized and accepted.

The Philippines could not subscribe to the view that there could be no intermediate zone between the outer limit of national jurisdiction and the area declared to be the common heritage of mankind. In its resolution 2749 (XXV) the General Assembly affirmed "that there is an area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, the precise limits of which are yet to be determined." That meant that the area of common heritage was still unknown and must be determined. It also amounted to an implied recognition of the limits of

1/ See A/C.1/PV.1782

national jurisdiction, which were regarded as being already known. The area of common heritage should, therefore, be delimited so as to respect not only areas under national jurisdiction, but also areas where a coastal State might have special interests or rights, such as those recognized by the 1958 Geneva Conventions.

Thus, the establishment of the international régime should prevent future encroachments by States on the common heritage but at the same time care should be taken that the régime did not encroach on areas already pertaining to States, by absorbing them into the common heritage.

The Philippine delegation was convinced that it would be easier to find unanimous agreement by accepting diversity than to attain unity by imposing unjust uniformity. It would be futile to draft treaty articles that would not be accepted by the world community, and all hopes of success would be illusory unless each proposed rules recognized the sovereign equality of States. It was essential to take account of the special interests of each State, the nature and dependence of its economy on the waters surrounding it and its geographical situation, whether it was a coastal State, an archipelago or a land-locked State. A State might, of course, negotiate about what constituted the common heritage of mankind and accept a compromise, but it could not be expected to bargain away easily a drop of water or a particle of soil that it regarded as its sole heritage.

The Philippine Government had agreed to the proposal to convene a conference on the law of the sea and had co-sponsored the draft of resolution 2750 C (XXV), by which the General Assembly had decided to convene such a conference in 1973. It had also voted in favour of the Declaration of Principles, but it would be compelled to withhold its support for any international régime that would detract from the sovereignty of the Philippines or its interests in the seas, the sea-bed and ocean floor, and the subsoil and resources thereof, around its archipelago, because such a régime would be contrary to the purpose and intent of the Declaration. Moreover, it would be impossible to go along with what would amount to a violation of its Constitution and national provisions of law which defined the extent of its national jurisdiction. As early as the 1958 Conference on the Law of the Sea and thereafter at the sixteenth UNESCO General Conference in Paris and the twelth session of the Asian and African Legal Consultative Committee (Colombo, January 1971), indeed whenever the occasion had arisen at any international gathering, the Philippines had vigorously asserted its sovereignty, jurisdiction and established rights over the inland and territorial waters and continental shelves of its archipelago. When, in 1967, the General Assembly began the consideration of the question of using the sea-bed and the ocean floor, and subsoil thereof, exclusively for peaceful purposes, the Philippines declared in the most categorical manner that its sovereignty and jurisdiction over its inland and territorial

waters and continental shelves could in no way be weakened by the resolutions that might be adopted on that subject. It had reaffirmed those reservations in 1968, 1969 and 1970.

The Philippines was an archipelago of more than 7,000 islands separated by inland seas. The Philippine Government considered that the waters between those islands formed part of the archipelago and that it was vital, not only to its economic life but also to its security, that it should exercise control over them. It further laid claim to the sea which, historically, had always belonged to the Philippines, just as other States laid claims to bays and gulfs for historical reasons.

The Philippine delegation could not but subscribe to the praiseworthy principles relating to the international régime set forth in paragraphs 7 and 9 of General Assembly resolution 2749 (XXV), but it preferred to refrain from expressing its views on the régime itself until concrete proposals had been submitted, since there was often a wide gap between principles and realities and it wished to be realistic.

Mr. FARHANG (Afghanistan) expressed the view that priority should be given to the question of the international régime, on the clear understanding that the relevant aspects of the question of limits could be raised and discussed during the deliberations. It would, in the first place, be impossible to prepare draft treaty articles defining the régime without knowing exactly to what area they would be applied. Secondly, General Assembly resolution 2749 (XXV), which declared that all activities regarding the exploration and exploitation of the resources of the area should be governed by the international régime, gave no precise definition of that area, other than that it was beyond the limits of national jurisdiction. He wondered how a meaningful régime and an international machinery for the exploration and exploitation of the area could possibly be established without a clear idea of what the limits of national jurisdiction were.

Afghanistan was a land-locked country and had no jurisdiction over a continental shelf. Its only claim in the matter was therefore its right of inheritance to what had been internationally recognized as the common heritage of mankind. That right could not be exercised unless there was a precise and generally agreed concept of the limits of national jurisdiction.

Any unilateral action by coastal countries regarding the exercise of their national jurisdiction over the area was incompatible with the concept of the common heritage of mankind. As long as the area was not clearly defined and delimited, any exploration or exploitation of the area and its resources, as well as any co-operation or collaboration between States on the granting of concessions or licenses or any other formula for the exploration and exploitation of the area and its resources would be regarded as a violation of that common heritage.

In resolution 2750 C (XXV), the General Assembly instructed the Committee that in the equitable sharing of benefits derived from the exploration and exploitation of the area the interests and needs of the developing countries were to be borne in mind; also, in resolution 2750 B (XXV), mention was made of the special problems of land-locked countries. He hoped that the Committee, when it considered the special problems of the land-locked countries, and the Secretary-General, when he prepared his report on those problems, as requested in resolution 2750 B (XXV), would treat the land-locked developing countries as the least developed, in keeping with the spirit of the International Strategy of the Second United Nations Development Decade.

Afghanistan shared the opinion that a "comprehensive list" did not mean a "complete list". The preparation of draft treaty articles could start when a reasonable number of subjects had been placed on the list. On the other hand, every delegation or group of delegations had the right to propose the addition of new items, whether or not they had already been dealt with in international instruments relating to international law. As a land-locked country, Afghanistan considered one of those items was the right of free access to the sea, which had been discussed at the 1958 Conference on the Law of the Sea and, even before that, had been mentioned in a memorandum adopted by a preliminary conference of land-locked states.

The right of access to the sea for land-locked countries derived from the fundamental principle of the freedom of the high seas. If there was no free access to the sea, the principle of the freedom of the high seas could have no universal application. Likewise, the right of free transit to the sea derived from the right of free access to the sea. It could therefore logically be maintained that the freedom of the high seas, the right of free access to the sea and the right of free transit to the sea and vice-versa were inseparable.

His delegation was sure that the memorandum prepared by the United Nations Secretariat in 1958, [2/] when brought up to date in conformity with General Assembly resolution 2750 B (XXV), would help the Committee in its consideration of the question.

Mr. YASSEEN (Iraq) observed that the General Assembly had broadened the terms of reference of the enlarged Committee and had done so with a view to the holding of a conference on the law of the sea which would deal with the establishment of an equitable international régime for the sea-bed and ocean floor, a precise definition of the area and "a broad range of related issues" [resolution 2750 C (XXV)]. He considered that in

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2/ See Official Records of the United Nations Conference on the Law of the Sea, vol.I: Preparatory Documents (United Nations publication, Sales No.: 58.V.4, vol.I), document A/CONF.13/29 and Add.1.

speaking of "related" issues, the General Assembly had stressed the economic law of the sea which was to govern the new circumstances created by the progress of science and technology. The régime to be established was therefore still the central theme of the whole of the new process recently set in motion by the General Assembly.

His delegation noted with satisfaction that the international community was firmly resolved to develop the wealth of the area in the interest of all mankind, and not to permit, in that area, the predominance of the strongest or the best equipped, and that it was concerned with the interests and needs of the developing countries, land-locked or not. He regarded the Declaration of Principles adopted by the General Assembly [resolution 2749 (XXV)] as more than a mere recommendation. He maintained that it had already affected positive law. He was thinking in particular of operative paragraph 1 which expressed the concept of the common heritage of mankind, and of operative paragraph 2, which in spite of the reservations expressed by certain States reflected a consensus and destroyed the psychological element: the opinio necessitatis of any customary rule that might be invoked in favour of appropriation or of claiming or exercising sovereignty or sovereign rights. Moreover, it was right to say that the question was not settled, for it was difficult to apply the rules relating to freedom of navigation to the matter of the resources of the sea-bed. It followed that the consensus forbidding appropriation and the exercise of sovereignty could rightly be considered as constituting a prohibitive customary rule.

With regard to priorities, he thought that the delimitation of the area might come last, for reasons of expediency which several representatives had already outlined. Once the régime was established, it would be easier to define its field of application. Consideration of the matter had encountered difficulties and stumbling-blocks which recalled the late Mr. Amado's assertion that there was no territorial sea, but there were territorial seas. A general rule could be inferred, but it was right to provide for exceptions, on the basis of objective criteria defined in advance to avoid arbitrariness.

In his view, determining the limits of national jurisdiction - and hence the international public domain - was an international act which, in order to be opposable to others, had to be carried out in virtue of international law.

With regard to international machinery he hoped that the joint efforts of all parties would enable a satisfactory formula to be found which would combine equity and efficiency.

There was room for a review of the existing positive law of the sea. There were gaps in the law; some problems had been left unsolved and certain rules should be adapted to meet new circumstances. Furthermore, the new States which had

not taken part in the 1958 and 1960 Conferences were entitled to ask for a re-examination of that positive law. But the scope of the work of codification which would have to be done by the Committee should be correctly assessed and the structure not tampered with more than was necessary.

In instructing the Committee to prepare the 1973 Conference, the General Assembly had used a new formula which differed from the one relating to the 1958 Conference. It was to be hoped, therefore, that the Committee would do its work effectively. In any event, the Committee should not wait until the list of issues to be considered by the Conference was complete before it embarked on the preparation of draft articles, starting with subjects on which there was no ground for controversy. It would be difficult, however, for draft articles to be prepared by a plenary Committee or sub-committee made up of 86 members, especially at the preliminary phase; it would therefore be useful to set up small, representative working groups for that purpose.

Mr. NJOTOWIJONO (Indonesia) argued that the question of defining the limits of the international sea-bed area should be discussed in Sub-Committee II, for the following reasons: first, since the limit of the international sea-bed area and the outer limit of the continental shelf were one and the same, the two questions should be discussed at the same time; and secondly, the discussion of the question of the limits of the international sea-bed area in Sub-Committee II could be based on a firm foundation, i.e. the definition of the limits of the continental shelf as contained in articles 1 and 2 of the 1958 Convention on the Continental Shelf. 3/ Whatever its shortcomings, that definition had the merit of being a positive rule of international law; thus, account could be taken, in the discussion, of the practice of States and the norms they had voluntarily adopted. That was important for the credibility of the work of codification which was to be undertaken.

Indonesia was not a Party to the 1958 Convention, but it had made use of it to define the limits of its own continental shelf in 1969, to approve contracts to explore and exploit the natural resources of the sea-bed area adjacent to its territorial sea, and, finally, reach an agreement with Malaysia delimiting the continental shelves of the two countries.

His delegation had no objection, however, to the suggestion that the question of the definition of the limits of the international area should be taken up by Sub-Committee I also, on the understanding that the main Committee would then have the task of harmonizing the conclusions of the two Sub-Committees.

3/ See United Nations, Treaty Series, vol. 499, pp. 312 and 314.

As to the definition of the outer limit of the continental shelf, the fact was that no geological or geomorphological uniformity was to be observed in any of the world's submarine areas. As the representative of Brazil had rightly said at the 1960 Conference, during the consideration of the question of the breadth of the territorial sea, no two seas were alike [4/] - and the same held true for submarine areas. Accordingly, it would be wrong to establish a universally valid limit, based on a single criterion. True, the definition given in the 1958 Convention suggested the use of the depth criterion, but in his delegation's view, that criterion should be combined with the distance criterion.

On the question of the territorial sea, he emphasized the special situation of archipelagic countries. Indonesia, which was an archipelago, had stated its position on the territorial sea in a Government declaration of 1957, which in 1960 had been reflected in a law whereby, the breadth of the Indonesian territorial sea was 12 nautical miles, measured from straight baselines connecting the outermost islands of the Indonesian archipelago. According to that concept, the islands, of which there were more than 13,000, and the intervening waters, formed a single unit. For the Indonesian people and Government, that was an axiomatic fact of life. It was also an economic necessity, for it was from the sea that, from time immemorial, the inhabitants of the Indonesian islands had drawn sustenance. Finally, the concept had political significance, for the integrity of its land, sea and air-space was essential for the country's survival. His delegation wished to make it clear that its position concerning archipelagic waters had never been meant to interfere with freedom of navigation, which was essential for international trade. That freedom was guaranteed in Indonesian waters, in compliance with international law. But such passage must be innocent, i.e. it must not endanger national security, public order, national interests, peace and - the latest hazard - the well-being of the coastal population, who were threatened by pollution caused by accidents at sea. Without wishing to prevent the passage of the new mammoth tankers, Indonesia must see to it that such passage did not endanger its coasts.

With regard to fishing and the conservation of the living resources of the high seas, his Government considered that the interests of coastal States, already recognized in the relevant Convention of 1958, should not be prejudiced. A coastal State had an exclusive right to fish in its waters and special rights of fishing in the

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4/ See Official Records of the Second United Nations Conference on the Law of the Sea (United Nations publication, Sales No.: 60.V.6), p.67.

high seas adjacent to its territorial sea. Those special rights depended on numerous factors, primarily the relation between the economic interests of the coastal population and the fishing grounds. The case of countries which depended largely on fishing for their livelihood undoubtedly deserved special attention.

His delegation welcomed the inclusion of the question of pollution in the Committee's broadened mandate. Also, it wished to join those delegations which had suggested that the relevant activities of the Inter-Governmental Maritime Consultative Organization (IMCO), the Preparatory Committee of the United Nations Conference on the Human Environment and Sub-Committee III should be co-ordinated.

Finally, he expressed the view that when the Committee came to prepare draft articles, it should bear in mind that a regional approach to specific problems had often led to solutions.

Mr. GALLAGHER (United Kingdom) said that his delegation welcomed the agreement on the organization of the Committee's work (see 45th meeting).

First of all, such agreement enabled delegations to express themselves freely, in other words, to discuss sea-bed limits in Sub-Committee I in conjunction with the régime and machinery, while leaving open the possibility of considering all maritime limits and their inter-relationship in Sub-Committee II. In his opinion, it would be premature to try to resolve the issue of limits until progress had been made on other complex problems.

The sea-bed régime must be not merely an expression of the concept of the common heritage of mankind; it must also provide the practical means whereby the potential wealth of the sea-bed could be exploited for the benefit of the international community, particularly the developing countries. It must therefore include operating conditions which would be likely to attract the very considerable capital, resources and skills required for the production of hydrocarbons and other minerals at great depth. Thus, the régime should inspire confidence and ensure the stability which was essential for long-term planning and investment. It was with those thoughts in mind that his delegation had submitted in August 1970 a paper on the type of régime which might be created. It hoped that that paper, which was the result of wide consultations, both nationally and internationally, would be the subject of a fruitful exchange of views in Sub-Committee I.

Secondly, with regard to priorities, it was well-known that his delegation was one of those that had argued the need for a third conference on the law of the sea, mainly in order to complete the study of the question of the breadth of the territorial sea, together with that of the closely related issues of passage through straits and of coastal States' rights in relation to fisheries. Other delegations, on the contrary, had argued that the establishment of an international régime should come first. That difference of views had led to a satisfactory compromise, namely, the idea that the two questions should be studied in parallel at the 1973 conference. But that did not imply that such parallelism must always be henceforth observed. In fact, in the early preparatory stages, the Committee would have to devote much more time to the question of the sea-bed régime than to the law of the sea. Accordingly, at the Committee's summer session, more time should be allocated to Sub-Committee I than to Sub-Committees II and III; also, procedural issues should be set aside in favour of substantive questions.

Thirdly, with reference to the subjects and issues relating to the law of the sea with which Sub-Committee II would be dealing, his delegation took account not only of General Assembly resolution 2750 C (XXV) but also of interpretations given by its sponsors, to the effect that delegations voting for that resolution were not committed, by the general formulations in paragraph 2 and 6, to the inclusion of any particular topic in the agenda of the 1973 conference which the General Assembly would be drawing up at its future sessions. His delegation attached great importance to that understanding because it regarded the 1958 Conventions as an important achievement, and to call them in question would constitute a backward step. However, if delegations thought it right to go into the existing law of the sea, it was to be hoped that they would concentrate on the specific issues and topics on which they had views to put forward.

For the rest, caution was called for, because, in accordance with the wish expressed by many countries, the General Assembly had decided in its resolution 2750 C (XXV) that the Conference would be held at an early date and that it would have a wide agenda; it would be difficult, however, to reconcile those two desiderata. If the Conference was convened in 1973, it should confine itself to genuine issues and particular topics. That was an additional reason for not re-opening, needlessly, the question of existing Conventions. His delegation had no intention of insisting that the Committee should confine itself to the two or three topics which were of most concern to his delegation; it merely hoped that the list would not assume inflated proportions.

With regard to pollution, it was important that the Committee should avoid duplicating work being undertaken by other United Nations bodies and, in particular, the preparatory work for the 1972 Conference on the Human Environment and the IMCO Conference on Marine Pollution, to be held in 1973. The Committee should concern itself solely with the pollution which might arise from the exploitation of the sea-bed. That alone was a formidable task.

Mr. SHAH (Nepal) said he was convinced that the agreement on the organization of work, while not satisfying any delegation entirely, would ensure the smooth functioning of the Committee. As a new member of the Committee, Nepal would be guided by the principle of international collaboration and co-operation.

Nepal was concerned to ensure the protection and respect of its right to the common heritage of mankind represented by the sea-bed, and, as a land-locked developing country, wished measures to be taken, within the framework of the future law of the sea, which were consistent with the rights of free access of land-locked countries to the sea.

In that connexion, the problems of land-locked countries were not the same as those of shelf-locked countries, and the policies and views of a land-locked developing country such as Nepal might in many respects be closer to those of a land-locked developed country than to those of a developing country with direct access to the sea. States in a particular region should therefore acknowledge, whenever necessary, that their interests did not necessarily coincide, and that what might serve the interests of States in one geographical situation did not necessarily meet those of other States. It was in that respect that the message of the Secretary-General - read out at the 45th meeting - urging the members of the Committee to reconcile their divergent opinions and interests for the common good, in accordance with the spirit of Article 1, paragraph 4, of the Charter, had its real significance.

With regard to the sea-bed and the ocean floor, Nepal was in full agreement with the principles laid down in General Assembly resolution 2749 (XXV), and more particularly operative paragraphs 1, 2, 7, 8 and 9, which should be applied in all international treaties relating to the law of the sea in general. In that connexion, he recalled the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-Soil thereof, and in particular article V, pointing out that his country had been one of those which had signed the instrument on the first day it was opened for signature.

His delegation considered that the most important question confronting the Committee was the definition of the area where the international régime would apply, for, in the absence of a precise definition of that area, the régime would have no meaning for purposes of a profitable exploitation of the area's resources.

As a land-locked country wishing to safeguard its right to the common heritage, Nepal could only regret the general tendency of coastal States to make unilateral claims to large areas of the sea-bed and the ocean floor, while not taking account of the legitimate rights of other countries. Nepal was particularly concerned that a number of States took unilateral decisions to extend their national jurisdiction over ocean space, despite the fact that an international régime might be established in a few years' time. That tendency, far from falling off, had continued to gain momentum since the adoption by the General Assembly of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Sub-Soil Thereof, beyond the Limits of National Jurisdiction [resolution 2749 (XXV)]. In accordance with the letter and the spirit of paragraph 2 of that Declaration, Nepal strongly urged States not to extend their jurisdiction unilaterally over ocean space.

Land-locked countries, whose territory was strictly limited by that of the surrounding States, could only expand by seizing foreign territory by force, and that was forbidden by the Charter. There was no reason why sea boundaries should be regulated by unilateral decisions instead of multilateral discussion and agreement. While it was true that coastal States were particularly concerned with the extent of their territorial waters, the economic life of Nepal was entirely dominated by its distance from the sea and its per capita income was below that of any coastal State, in any area of the world.

It was generally considered that the bulk of the mineral wealth extracted from the sea would come largely, at least in the foreseeable future, from the sea-bed near the coast. That fact should be borne in mind when the limits of the area under international jurisdiction were determined. Nepal was therefore of the opinion that the international machinery, as had been suggested by the representative of India (see 48th meeting), should have jurisdiction over an area, the depth and resources of which would permit profitable exploitation.

For that reason, the so-called question of priorities did not seem to his delegation to be of fundamental importance. An international sea-bed régime and international machinery should therefore be established, the details of which should be embodied in a treaty or treaties to be concluded at the projected conference on the law of the sea. Whether or not a given subject was treated as a matter of priority in a particular Sub-Committee made no difference, since the question of the international régime, including the international machinery, and the definition of the area to which the régime applied should both be agreed upon at the same time and at the same conference. It therefore seemed expedient for Sub-Committee I to deal with the two questions at the same time. Nepal was accordingly in favour of giving priority to the setting up of an international régime together with the delimitation of the area to which it would apply.

Referring to that part of the mandate of Sub-Committee I concerned with land-locked countries, he recalled operative paragraph 1 of General Assembly resolution 2570 B (XXV) and expressed the hope that, in the study which the Secretary-General had been requested to undertake, he would consider the questions dealt with in his memorandum of 14 January 1958, and also that he would study and set out in greater detail the question of free access to the sea and the related question of the transit rights of land-locked countries in general. The new report should also indicate the various specific measures which could be taken to alleviate the problems of the land-locked countries. He hoped the Secretary-General would give special thought to the need for the land-locked countries to be given facilities for coastal installations, in order that they might participate more directly in the exploitation and exploration of the resources of the sea-bed, as an application of their general right of free access to the sea.

The question of the land-locked countries had been allocated to Sub-Committee I. The Secretary-General's study, however, would consider the law of the sea as it applied to the land-locked countries, namely from the point of view of free access to the sea and transit rights, as well as the special problems of the land-locked countries in relation to their legitimate participation in the exploitation of the sea-bed and the ocean floor. Moreover, in accordance with operative paragraph 2 of General Assembly Resolution 2750 B (XXV), the Committee was to draw up appropriate measures within the framework of the law of the sea in order to resolve the problems of the land-locked countries. Obviously, therefore, the problems of the land-locked countries should be studied by both Sub-Committee I and Sub-Committee II.

Mr. ELHUSSEIN (Sudan) recalled the efforts of the Committee which had led to the adoption by the General Assembly of the Declaration of Principles [resolution 2749 (XXV)], and expressed the hope that the rapid advances of technology would not be used to the detriment of the developing countries, which constituted the vast majority of the community of nations. It was important to find a just and equitable formula to bridge the gap between developing and developed countries and that was the objective of the resolutions adopted by the General Assembly concerning the use of the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction.

Modern technology had put within reach of a few maritime Powers the resources of many parts of the sea-bed. Unless those Powers restrained the greed of their national private enterprises and took into consideration the needs of the developing countries, conflicts were bound to arise, since the less technologically advanced countries would be deprived of their fair share of the ocean's resources. For that reason, his

Government had been following with keen interest the efforts of the United Nations to work out an acceptable formula governing the utilization of the resources of the sea-bed that would give special consideration to the needs of developing countries.

With regard to international machinery, many delegations, including his own, thought that it should take the form of an autononous universal organization possessing full legal personality, and having jurisdiction in the full sense of that word, over the sea-bed and the ocean floor beyond the limits of national jurisdiction, to ensure the exploration, exploitation and use of the resources, as well as the supervision and control of operations, prevention of pollution, the safety of life and property and the conservation of the living resources of the sea. In fact, the international machinery should be so organized as to enable it to undertake wide functions and assume comprehensive powers. It was in the interests of both the developed and the developing countries that the international régime should provide for a fair distribution of the benefits in accordance with the economic development needs of each country. The régime should take into account technological and scientific developments as well as the legal and political realities of the world today. It was now well established that modern technology had made exploitation possible at depths of over 200 metres, which allowed coastal States to extend their jurisdiction over the sea-bed to greater depths than had been envisaged in 1958. Again, the rules of international law governing the limits of the territorial sea lacked uniformity so that, depending on their geological and biological conditions and their degree of economic development, States had adopted different criteria to define the extent of their jurisdiction over the waters adjacent to their coasts. It might be difficult and indeed undesirable at that stage to select a certain pattern of territorial sea limits which suited the national interests of a certain category of States and then apply it to all parts of the world. Some countries saw in the ocean floor a monopoly for private enterprise and an open frontier for military activities while others saw in it a promise of wellbeing and prosperity for their people.

His delegation did not think it would be realistic to expect States, especially developing States, to restrict their maritime sovereignty or sacrifice their national interests in the expectancy of benefits that might be derived from the resources of the sea under a régime whose powers had yet to be defined.

In order to find a satisfactory solution to the question of limits under the international régime, it would first be necessary to work out a just formula for the establishment of an equitable régime with full and comprehensive powers. The question of limits could easily be settled if the régime assured the developing countries that

they would receive a substantial share of the benefits to be derived from exploitation of the resources of the sea-bed and the ocean floor. Like the representative of Iraq, he thought that the question of limits under international jurisdiction would come last in the study of the régime to be established.

It was to be hoped that the technologically advanced countries would spare no effort to enable the developing countries to receive a fair share of the resources of the ocean floor. As the Secretary-General of the United Nations had said before the First Committee of the General Assembly, 5/ in the absence of international agreements, Governments might encounter difficulties and feel compelled to interpret their national interests in such a way that international co-operation could be severely compromised.

Mr. ABDEL-HAMID (United Arab Republic) said he appreciated that progress had been made during the last three years and that confidence had begun to be generated among the members of the Committee. The play of political, economic and strategic interests had certainly not simplified matters, but the way towards orderly progress had now been opened.

A major step forward had been accomplished through the adoption by the General Assembly of the Declaration of Principles contained in resolution 2749 (XXV). In its endeavours to promote a multilateral approach the Committee would have to pay particular attention to the principle relating to the machinery for the international régime set forth in the second sentence of operative paragraph 9 of that resolution, which had been adopted in response to the concern of the overwhelming majority of States. Clearly, it should not overlook the other points of view on questions related to the sea-bed and ocean floor as a whole, but there would be no sense in ignoring facts of multilateral diplomacy, which called for fair and sound compromises, the sole guarantee for devising efficient and viable arrangements.

From the practical point of view, the régime would have to be supported by adequate machinery, since it would be unrealistic to expect countries to surrender their national interests without suitable safeguards. The international machinery would make it possible to harmonize and co-ordinate national interests by settling any disputes that might arise.

In those circumstances, it was obvious that priority should be given to the planning of an international régime. The wide consensus on that point was most encouraging, but it was important that the international machinery should have well defined functions if all States were to surrender a reasonable number of their prerogatives. It should not serve as a disguise for perpetuating the existing state

5/ See A/C.1/PV.1773

of affairs. Certainly, customary regional arrangements could provide for certain variations, which, however, should not infringe on the principles already agreed upon by the world community. Moreover, regional arrangements were covered by the United Nations Charter.

The question of the mandate of Sub-Committee II was a complex matter. The ultimate decision would have to be based on present realities but oriented towards the future. Above all, it would have to be taken in a spirit of compromise, which constituted the very fabric of multilateral negotiations. The success of mankind would be judged by its capacity to adapt intelligently and constructively to the rapid advances in science and technology. Progress had been slow at first, but people were gradually becoming aware that the different aspects of ocean space, whether related to the sea-bed and ocean floor, or to the traditional aspects of the law of the sea, could not be studied or discussed independently of one another. In particular, it would be necessary to give simultaneous study, on the one hand, to problems arising from the exploration and exploitation of the sea-bed and ocean floor, their peaceful uses, the elaboration of an international régime governing activities in zones beyond national jurisdiction, and on the other hand, to problems that had remained unsolved at the end of the second United Nations Conference on the Law of the Sea.

To prepare for the third conference on the law of the sea, Sub-Committee II had been entrusted with the preparation of a list of subjects and issues to be examined, as well as the elaboration of relevant draft treaty articles. It was absolutely essential that at the time of drafting all States should be able to make an effective contribution, as was their right.

The meeting rose at 6.5 p.m.

SUMMARY RECORD OF THE FIFTY-SIXTH MEETING

Held on Tuesday, 23 March 1971, at 10.15 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. SMOQUINA (Italy) said that although the preliminary discussions had caused considerable delay, they had made it possible to clarify a number of important points and so prepared the way for the Committee's substantive work at the present and subsequent sessions.

The Committee was faced with the problem of reconciling two fundamentally conflicting views. On the one hand, everyone seemed to agree on the need to establish an international legal régime; on the other hand, a number of delegations had drawn attention to some very special situations and had emphasized the desirability of establishing different régimes or different rules to meet the requirements and realities of each particular region.

If the Committee drew up a series of special régimes adapted to different regions, instead of general and universally applicable rules, it would not be doing its job properly. It would be running the risk of weakening the new régime and even of creating dangerous discriminations which might give rise to serious disputes in the future. If the Committee wished to reach conclusions of lasting value and make an effective contribution to world co-operation it should try to agree on a single régime for all countries.

That did not mean that the Committee should refuse to take special situations into consideration. It was normal for general law to make special provision for situations which were very different from the normal. It would be reasonable, therefore, within the framework of a general régime, to consider special provisions for the more special cases such as internal or marginal seas, which were exposed to serious pollution hazards; the Polar regions, because exploitation might cause vast ice masses to thaw with serious dangers to navigation and to the nearest coastal countries; archaeological sites and historic treasures at the bottom of certain enclosed seas like the Mediterranean; and finally the developing countries. In the opinion of the Italian Government, not only should the sea-bed be exploited to provide effective aid for developing countries but the international community should make every effort to train staff from the developing countries in economic exploitation and in scientific research, a task in which UNDP could be of great help.

With regard to the law of the sea in general, some aspects needed revision in the international context, in the light of present-day needs and recent developments in all forms of marine exploitation such as navigation, fishing, scientific exploration and exploitation of other resources. In order that such revision should really meet the interests of mankind, it should be based on two fundamental ideas: first, the new solutions should take account of the need for the widest possible acceptance by the international community, since unilateral solutions could only offer partial and ephemeral satisfaction; and secondly, the new solutions should be consistent with the fundamental principles on which the law of the sea had been traditionally based, and recognized by the Geneva Conventions (for example, the principles of the freedom of the seas, the existence of sovereign rights in favour of coastal States over the continental shelf of continents and islands, etc.). Obviously compromise and sacrifice would be needed to attain those objectives, and his delegation was ready to co-operate fully in seeking equitable and reasonable solutions in the interests of the international community.

Mr. ALCIVAR (Ecuador) said that over the course of time the ancient theses of the mare clausum and the mare liberum, as well as the concepts of res communis and res nullius as applied to the high seas, had varied according to the interests of the great maritime Powers. In the last analysis, the only right recognized by power politics was that imposed by it in order to enable the large States to enjoy the good things of life. With the process of decolonization, however, and with the growing universalization of the international community, international law had taken on new dimensions, while at the same time it had been obliged to revise old institutions in order to confront the realities of a new world.

Custom had doubtless been the main source of classic international law, although in the past the rule of customary law had been imposed by political power, which to all intents and purposes was economic and military power. The new international law which was being developed in the United Nations started from a premise which nobody could dispute: the great economic and social inequality between the members of the present international community. By an elementary principle of distributive justice, therefore, in a similar way to what was occurring in labour law in the domestic affairs of States, the new international law was designed to protect the weak against the strong and it was only in the light of that consideration that the universal juridical rules of the present time could be established, either through custom, or by conventions.

In an era of intercontinental missiles, a three-mile cannon-shot rule as the limit of the territorial sea was no more than a poor joke. Today, the maritime jurisdiction of States was not determined by the criterion of military defence. The great Powers, which owned huge fishing fleets capable of sailing right round the world, claimed that the narrowest possible territorial sea should be set up as a general juridical rule because fish were most plentiful in the areas adjacent to the coasts of Asia, Africa and Latin America. However, the countries of the Third World had the unavoidable duty of defending their natural resources - including those found in the waters adjacent to their coasts - because the very lives of their peoples were at stake. For a number of years, as the representative of Peru (46th meeting) had rightly pointed out, many countries had extended their maritime jurisdiction by different amounts for different purposes. Peru, of course, provided the best example of what a poor country could achieve by extending its jurisdictional waters in reasonable proportion to its geographic, geological and biological characteristics.

In order to avoid biased interpretations, it should be made clear that there was no juridical rule whatsoever in general international law delimiting the breadth of the territorial sea. The famous twelve-mile rule for the territorial sea and the contiguous zone referred to in the Geneva Convention only applied in less than forty of the States Parties, and the various distances adopted by others for their jurisdictional waters showed that there did not exist any "international custom, as evidence of a general practice accepted as law", to use the words of article 38 of the Statute of the International Court of Justice. That irrefutable fact destroyed the fallacious arguments of those who claimed that the breadth of 200 miles was an arbitrary one, since if that argument were accepted, any breadth set by a State, whether three, twelve, fifty or 100 miles, would be equally arbitrary. The only indisputable fact was that a coastal State had the right to establish the limits of its maritime sovereignty or jurisdiction, as provided in the Declaration of the Latin American Countries on the Law of the Sea adopted at Lima on 8 August 1970.

With regard to the international conference which it was hoped to hold in 1973, he would point out that the fourth preambular paragraph of General Assembly resolution 2750 C (XXV) stated that "the problems of ocean space are closely inter-related and need to be considered as a whole". The proposals so far received from the great Powers, however, gave reason to believe that the international conference would be expected to deal only with matters which affected their special interests.

That was particularly borne out by the United States representative's suggestion that the various subjects under discussion should be dealt with in "manageable packages" (see 51st meeting). The United States Government was now prepared to make one concession: to extend the breadth of the territorial sea to twelve miles, in which area the coastal State would be absolutely sovereign over the surface waters, the sea-bed and the superjacent air space, with no special rights beyond that limit. Except for the concession with respect to breadth, there was nothing new in that offer, since the concept of the territorial sea involved the principle of the absolute sovereignty of the coastal State. The "manageable package" would be made up by tying up the question of the territorial sea with the questions of straits and of fisheries beyond the twelve-mile limit. That so-called "accommodation", however, would be only a complex solution in which two seemingly connected questions were artificially grouped together. For example, the question of the breadth of the territorial sea might be linked to that of straits or fishing rights. In the first case, the "accommodation" was obviously aimed at satisfying a political and strategic interest of the great Powers, namely, the right of passage through straits, particularly the right to fly over them. In exchange, the other States were being offered something which many of them already had, namely, a twelve-mile territorial sea. The same applied to fisheries: certain economic rights were generously conceded to the coastal States, but in exchange for that "accommodation" they were expected to renounce their maritime jurisdictions, in other words, to give up something which was vital to their peoples.

As a country of the Third World, Ecuador was struggling against external forces which were obstructing its development. Almost twenty years ago, it had extended its maritime jurisdiction to 200 miles when, together with Chile and Peru it had signed the Agreement supplementary to the Declaration of Sovereignty over the Maritime Zone of Two Hundred Miles.[1/] The living resources of its seas and the mineral resources of its marine subsoil were vital to its existence and it could not abandon them. It fully respected the right of innocent passage in accordance with international practice, but it enforced its laws strictly when its jurisdictional waters were violated. Since the beginning of the present year, it had penalized a large number of United States vessels for fishing in its waters without the necessary legal authorization. The penalty which a State imposed within its territory on its own or foreign nationals for his acts of commission or omission was an act of jus imperium. Nevertheless, the United States Government had applied coercive measures against Ecuador, in violation of the United

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1/ See United Nations Legislative Series, Laws and Regulations on the Régime of the Territorial Sea (United Nations publication, Sales No.: 1957. V. 2), pp. 729-730.

Nations Charter and the constituent statute of a regional body of which both States were members. It was unnecessary to say that his Government would continue to ensure that its jurisdictional waters were respected, regardless of the conclusions which might be drawn by power politics.

In its work in the Committee, his delegation was prepared to consider all the inter-related problems of the ocean space, but it was also prepared, as its country's President had stated, to defend the vital interests of peoples against the piratical acts of those who were filling their coffers through the pillage of others.

Mr. FEKETE (Hungary) said that in preparing for the forthcoming conference on the law of the sea, it was inevitable that the Committee should encounter conflicting views and interests. That was normal in the early stages of negotiations leading to the conclusion of international instruments, but at the same time, there was always a common desire to settle certain questions by mutual agreement. Reasonable settlements could be reached only by finding what elements were acceptable to all; the age of inequitable treaties was over.

A great deal had been said about the rights and interests of coastal States but some of those States had been extending their national jurisdiction to a degree that could be described as excessive. If that tendency developed into an international competition, the area whose limits the Committee had been asked to define would shrink considerably. Extension of the coastal sea and national jurisdiction of certain States by such unilateral measures could not be harmonized with the interests of even the majority of States, whereas it was the interests of all States that the Committee had to weigh and carefully consider. There had been little mention so far of the rights and interests of those States which might find themselves at a disadvantage as a result of unilateral actions.

General Assembly resolution 2750 B (XXV) stated that the exploration of the area and the exploitation of its resources should be carried out for the benefit of all mankind, taking into account the special interests and needs of the developing countries, including the landlocked countries. The landlocked countries could not extend their national jurisdiction by unilateral action, nor could they try to improve their economic conditions through unilateral administrative measures. Their geographical situation hampered their development, for they not only had no share in the treasures of the coastal seas, but they suffered the disadvantage of having to pay higher transport costs than other countries. If, therefore, it was recognized that

there was an area of the sea-bed and the ocean floor that lay beyond the limits of national jurisdiction, it was important to define that area precisely so as to confine the coastal sea within reasonable limits.

He agreed with the representative of Singapore (50th meeting) that the increasing claims by some coastal States to the sea-bed and the ocean floor could not be ignored, for every extension of national jurisdiction encroached on and diminished the value of mankind's future inheritance. An urgent solution must be found so that mutual understanding and goodwill might prevail over unilateral and exaggerated extensions of the coastal sea and national jurisdiction. Unless an international instrument could be drawn up which took into account the interests of all people and all States, it would be impossible to ensure the peaceful uses of the sea-bed and the ocean floor and the peaceful exploration and exploitation of their resources. International tensions would increase and the sufferers would be the developing countries, in particular the landlocked ones.

In order for Sub-Committee I to carry out its allotted task of preparing draft treaty articles embodying the international régime and machinery, in accordance with the Committee's mandate as laid down in General Assembly resolution 2750 C (XXV), it would have to know the situation and the limits of the area in question. The different questions involved in the preparation of the articles were so closely linked that they would have to be dealt with systematically and comprehensively, otherwise new and more complicated problems might be created instead of old problems being settled. For the landlocked countries, it was important to ensure freedom of navigation through the straits used for international navigation where such straits became part of territorial waters established by coastal States within the agreed limits.

The Hungarian People's Republic had been among the first to sign the Treaty on the prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, on 11 February 1971, and he hoped that the Treaty would soon come into force.

In order to strengthen international peace and security and to lessen international tensions, every effort should be made to settle controversial questions in accordance with the Charter. A step in that direction was the adoption at the twenty-fifth session of the General Assembly of the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations [resolution 2625 (XXV)].

His delegation would co-operate fully in seeking to achieve a fair balance and a generally acceptable international solution to the questions allocated to the Committee.

Mr. KEDADI (Tunisia) said that although the Geneva Conventions of 1958 had marked a definite step forward in the codification of the law of the sea, they had left a large number of questions still unanswered. Moreover, the possibility of exploiting the sea-bed and the ocean floor had given rise to new notions concerning the law of the sea. In recent years the great technical progress by some developed countries, which were making improper use of it in their exploitation of the sea-bed had provoked different reactions from States: some had extended the scope of their national jurisdiction to wider limits, while others, which had recently acceded to independence and had not participated in the earlier Conventions, were rightly calling for a new international juridical régime which would be based on equitable principles and in which due account would be taken of their own own interests.

While future historians might besitate to support the claims of the developing countries in the field of international trade, they would come out wholeheartedly in their favour with respect to the peaceful uses of the sea-bed and ocean floor beyond the limits of national jurisdiction, since those areas were "res nullius", or vacant property belonging to mankind as a whole. It logically followed that, in accordance with international morality and justice, a fair share of the important resources contained in that international area should be apportioned to each State as a matter of lawful right.

With regard to the organization of work, his delegation regretted the Committee's hesitation to grant priority to the economic implications of the exploitation of the resources of the sea-bed and ocean floor and the subsoil adjacent thereto, since it felt that the spirit and letter of resolution 2750 (XXV), as well as the Declaration of Principles contained in resolution 2749 (XXV), were clear enough to grant such priority in view of the special and immediate interests of the developing countries. To make the discussion of that vital problem depend on a new decision by the Committee might delay indefinitely the detailed study of a question on which the very foundations on which the Committee's work as a whole rested. His delegation also regretted that the Committee had not yet received the Secretary-General's report on that subject, since it would be difficult for members to express their views on any régime until they had had a chance to study that report carefully.

His delegation would also have liked the Committee to give higher priority to the problem of training the nationals of the developing countries in the fields of science and technology related to the sea-bed and ocean floor. It attached great importance to that question, since it felt that no international régime or machinery could be viable and equitable unless it provided for the effective participation of qualified representatives of developing countries. The recruitment of such representatives should not be left until after the establishment of the régime; on the contrary, steps should be taken immediately to give them intensive training with the assistance of UNDP and the specialized agencies, in particular UNESCO, IOC and FAO.

Another important problem closely connected with that of the territorial sea was that of the living resources of the sea. There, too, it was necessary to find rational and equitable criteria and, above all, to take into account the interests of the developing countries, most of which, like his own, were dependent on fishing.

With regard to the preparation of an international régime and international machinery for the area and resources of the sea-bed and ocean floor, his delegation thought that that would call for each member of the international community to take an overall view of all the problems involved and to make a long-term projection of the impact which they might have. It was generally acknowledged that the marine environment constituted an organic whole and that problems of a juridical and a conceptual nature were indissolubly lined. To take, for example, the problems connected with the breadth of the territorial sea, it would be found the traditional three-mile limit had been gradually replaced in the law of certain countries by a distance up to 200 miles. That had been a legitimate reaction to the practice of certain coastal States with wide continental shelves which had wrongfully appropriated for themselves the superjacent international waters. That chaotic situation had been created by a distorted interpretation of the 1958 Convention on the Continental Shelf, and certain States had even gone so far as to insist that a small island at a considerable distance from their coasts should also have its own continental shelf.

Those complex problems could only be solved by setting up an international régime which would be strong because it was just, and because it was freely accepted by all States in the world, which would then be willing to make certain concessions with regard to their national sovereignty. On the question of the nature of the international régime, his delegation preferred to reserve its position for the time being.

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the Committee's task was to prepare for the forthcoming conference draft treaty articles on the régime of the sea-bed and draft articles on questions of the law of the sea which required settlement. It was not an easy task, partly because the terms of reference which the Committee had been given by the General Assembly were not well formulated. Instead of listing specific problems for the Committee to study, the relevant General Assembly resolution contained general - and occasionally vague - formulations which were naturally open to different interpretations. In the circumstances, and in view of serious differences between the positions of States on many of the questions to be considered, the Committee would have to work patiently and painstakingly in order to find acceptable solutions which took into consideration both the interests of individual States and the interests of the international community as a whole.

In drafting rules of the law of the sea it was essential to bear in mind, first, the general trend in the development of the law of the sea and, secondly, the legitimate interests of States. It was sometimes alleged that in a changing world, with the emergence of new States and the rapid advances in science and technology, the rules of the law of the sea contained in the Geneva Conventions of 1958 were obsolete and needed revision. In fact, the existing rules of the law of the sea had not come into being overnight, but had been shaped over centuries of co-operation between States. The Geneva Conventions of 1958 merely contained, in treaty form, a number of generally recognized principles of the law of the sea which had proved their value in practice.

One of the main principles on which the Geneva Conventions were based was the principle of the freedom of the high seas. It had been alleged that that principle was obsolete and contrary to the interests of States - particularly the developing countries - and that the only way for coastal States to protect their interests was to extend their territorial waters. However, experts had calculated that if all States were to extend their territorial waters up to the 200-mile limit, as much as 50 per cent of the world's oceans would become territorial waters. Individual States would seize huge areas of the sea and the shelf and sea-bed beneath it. By adopting the 200-mile limit for its territorial waters in the Atlantic, one Latin American State had extended its jurisdiction over an area of the high seas which exceeded 1.5 million square kilometres - the whole of the territories of France, Britain, Italy, Spain, Belgium and the Netherlands put together. Another Latin American State, by adopting the 200-mile limit in the Atlantic alone, had extended its jurisdiction over 3 million square kilometres.

The Soviet Union itself had the longest coastline of any country in the world, extending for 100,000 kilometres, including the coasts of off-shore islands. If it were to adopt the 200-mile limit on its Pacific coast alone, it would extend its jurisdiction over areas of the sea covering more than 5 million square kilometers - twice the size of the Mediterranean. A general extension of territorial waters to the 200-mile limit would place international navigation under the control of coastal States, and would interfere with international communications and trade. As far as the sea-bed was concerned, the area covered by the international régime would be considerably reduced; indeed, it might even become pointless to establish a régime at all, since it would in practice apply only to the ocean depths and other areas of the sea-bed which were virtually inaccessible for exploitation.

It was sometimes said that the Geneva Conventions of 1958 had been drafted by the maritime Powers and reflected their interests only. The fact was that, out of the 86 States participating in the 1958 Conference, 49 - or more than half - had been developing countries. The resolutions of the Geneva Conference had been approved by States Members of the United Nations. In resolution 1307 (XIII) the General Assembly had stated that "... the Conference made an historic contribution to the codification and progressive development of international law by preparing and opening for signature conventions on nearly all of the subjects covered by the draft articles on the law of the sea drawn up by the International Law Commission ...". It was clear therefore that the Geneva Conventions of 1958 were a product of the historical development of human society, and that there was no need to scrap them. They should rather be taken as a basis for solving the problems which were still outstanding and any new problems which might arise.

In discussing problems of the law of the sea, the Soviet Union was prepared to take into consideration the security requirements of other States; but it believed that its own interests in that area should be respected as well. It had constantly advocated measures to prevent the sea from being used for aggressive purposes. The Treaty on the Prohibition of the Emplacement of Weapons of Mass Destruction on the Sea-Bed had been drafted on its initiative; and it advocated a comprehensive ban on the use of the sea-bed for military purposes.

It had been alleged that, as a result of developments in fishing techniques, the coastal fishing of the developing countries was being threatened by States fishing with large fleets, which were said to be destroying coastal fishery resources. But FAO statistics showed that, out of a total of 56.6 million tons of fish caught in the high

seas in 1968, 23.1 million tons had been caught in the Atlantic - some 17 million of them in the north Atlantic, a region far removed from the developing countries of Africa, Asia and Latin America. The total catch in the Pacific had amounted to 31.3 million tons - about 16 million tons of it in the northern Pacific. Some 12 million tons had been caught in the south-eastern Pacific, mainly off Peru, Chile and Ecuador; but fishing in that area was largely undertaken by the coastal States. Only 3 per cent of the total world catch had been taken in the Indian Ocean, on which the developing countries of Asia and Africa had their coasts.

One way of solving the problem of feeding the world's population would be to use the resources of the world's oceans more rationally. At the present time, mankind was obtaining up to 25 per cent of its protein from the sea. Many Soviet and other scientists believed that, with a more rational use of the living resources of the sea, the total annual catch could be increased to 100 million tons without upsetting the biological balance.

If claims to exclusive rights over extensive off-shore regions of the high seas were admitted, a huge quantity of food resources would be lost. Research had shown that, in the south-west Atlantic, 10 to 12 million tons of fish could be caught every year without affecting the process of reproduction; but the coastal States which had established a 200-mile limit for their territorial waters were catching only 250,000 tons a year, or barely two per cent of the total potential catch in that area. Mineral resources remained where they were indefinitely, but fish only lived for a short period; and if they were not caught, eventually they died. With a large proportion of the world's population starving, it was wrong to waste any of the available resources of fish.

During the discussion a number of representatives had referred to rich and poor States and - without making any distinction between the rich States - had asserted that the latter had become rich by exploiting other peoples. Such an approach misrepresented the true situation. The socialist States, whose national wealth had been created by the labour of their peoples, could not be placed on the same footing as the imperialist Powers whose wealth had been obtained by exploiting colonies. The Soviet State had never had any colonies and had never plundered other peoples. It had created a new socialist structure and developed industry and agriculture purely and simply by the untiring labour of Soviet citizens. The Soviet delegation rejected outright such an approach to the Soviet State.

His delegation agreed with earlier speakers that many of the specific questions before the Committee were inter-related and should be considered together. With regard to the breadth of territorial waters, twentieth century experience had shown that the 12-mile limit was in keeping with modern requirements and was quite sufficient for maintaining the security and protecting the customs, health and other interests of the coastal State. The Soviet Union had always advocated the 12-mile limit for territorial waters, and the vast majority of States seemed to accept that figure as well. Fifty-four States - including 46 developing countries - had now established a 12-mile limit for their territorial waters, compared with only thirteen in 1958. Out of the 109 coastal States, 96 had adopted a limit of 12 miles or less, and only thirteen had territorial waters extending for more than 12 miles. The establishment of the 12-mile limit as a principle of international law was therefore completely justified from every point of view.

The Soviet delegation did not, of course, wish to suggest that all States should establish a 12-mile limit. There were at present forty-four States with territorial waters extending for less than 12 miles. If a general 12-mile limit were adopted, it would be for those States themselves to decide whether or not to extend their territorial waters. On the other hand, coastal States which had set the limit of their territorial waters at less than 12 miles should be entitled to establish a fishing zone, of a breadth such that the total breadth of their territorial waters plus fishing zone did not exceed 12 miles.

One point directly connected with the establishment of the 12-mile limit for territorial waters was the question of free passage through, and free over-flight of, straits used for international navigation. If the breadth of the territorial waters were increased to 12 miles in every case, more than 100 straits would be transformed into territorial waters of coastal States; and it would therefore be necessary to make arrangements for free passage and over-flight.

Many States were understandably anxious to protect their economic - and particularly their fishing - interests in the coastal zone of the high seas. The Soviet delegation believed that, if the 12-mile limit for the territorial waters was generally accepted, certain preferential rights might be accorded to coastal States in regard to fishing in areas of the high seas adjacent to their territorial waters. The coastal State should, if necessary, be able to take steps to protect the fishery resources in those areas of the high seas; but the solution adopted should be a balanced one, taking into

consideration the interests both of the coastal States and of States fishing with large fleets, to ensure that fishery resources were rationally exploited and were neither wasted nor over-fished. Any measures adopted should be based on objective scientific data, and should be taken in co-operation with the international organizations responsible for regulating fishing in various parts of the world.

With regard to the régime of the sea-bed beyond the limits of national jurisdiction, the best course would be to start by drafting the provisions of a treaty defining the procedure for exploiting the resources of the sea-bed. The future treaty should be universal in character and open to signature by all States without discrimination, irrespective of whether they were members of the United Nations or the specialized agencies.

There should be a uniform régime for all areas of the sea-bed beyond the limits of national jurisdiction. If such a régime was to be effective and viable, it would have to be established by general agreement between all States large and small, developed and developing, maritime and land-locked. Due account would also have to be taken of the existing level of technology for exploring and exploiting the resources of the sea-bed, and also of the prospects for the future development of that technology.

The treaty should be based on the principle that the sea-bed was open to use, exclusively for peaceful purposes, by all States without discrimination. It should therefore include provisions banning the use of the sea-bed for military purposes, without prejudice to any measures which had been or might be agreed upon in the context of international negotiations undertaken in the field of disarmament and which might be applicable in a broader area. One solution might be to include an article stating that the parties to the treaty would conclude as soon as possible one or more international agreements in order to implement effectively that principle and to constitute a step towards the exclusion of the sea-bed and the ocean floor and the subsoil thereof from the arms race. The Soviet delegation took the view that specific problems relating to the prohibition of the use of the sea-bed for military purposes should be dealt with by the Committee on Disarmament, and were not within the competence of the present Committee.

The treaty might also contain, as a general principle, a provision stating that exploration of the sea-bed and the exploitation of its resources should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States and taking into consideration the interests and needs of the developing countries. It should include an undertaking by States to promote international co-operation in

scientific research on the sea-bed, and provisions to prevent contamination of the marine environment and damage to its flora and fauna. There should be an article stating specifically that the provisions of the treaty did not affect the legal status of the superjacent waters or airspace of the sea-bed.

The treaty should contain rules governing the activities of States in the industrial exploration and exploitation of the mineral resources of the sea-bed and its subsoil, but should not refer to other activities of States in that area. The rights and obligations of States in the exploration and exploitation of the mineral resources of the sea-bed and its subsoil should be duly balanced. In particular, the treaty should ensure that exploitation of the resources was profitable and economical; and for that it would of course be necessary to invest considerable sums and to develop new equipment and methods. It was important that the resources of the sea-bed should be protected from predatory methods of exploitation, and that the safety of personnel and equipment should likewise be protected. Exploration and exploitation of the mineral resources of the sea-bed should be carried out in a manner conducive to the development of the world economy and international trade. The treaty should contain provisions stating that the activities of States in the exploration and exploitation of the resources of the sea-bed should not interfere with navigation, fishing or other activities on the high seas. It should also include a provision prohibiting the appropriation of any part of the sea-bed either by States or by natural or juridical persons. No State should claim or exercise sovereignty or sovereign rights over any part of the sea-bed and the ocean floor.

It would of course be impossible to apply the provisions of the treaty effectively unless the area of the sea-bed and the ocean floor covered by the treaty were clearly defined. It was therefore important to establish the exact outer limits of the continental shelf, within which the coastal State was entitled to exercise its sovereign rights in the exploration and exploitation of resources. Some delegations believed that the 200-metre depth criterion should be used for defining the outer limit of the continental shelf; others thought that the limit should be defined in terms of distance from the coast, while yet others proposed a combination of the two criteria. With all those alternatives, it should certainly be possible to find a satisfactory solution.

Many delegations had expressed the view that, in elaborating the régime for the sea-bed, it was essential to start with the machinery. The Soviet delegation believed that that approach was incorrect both from the point of view of the organization of work

and from the practical standpoint. The provisions concerning the machinery should be an integral part of the treaty determining the régime for the exploitation of the sea-bed and its resources. Attempts to establish the machinery separately from the provisions of the treaty determining the régime of the sea-bed - and to authorize the machinery to formulate and establish the régime for the exploitation of the sea-bed - were unjustifiable and unrealistic.

Some delegations were obviously trying to give the machinery excessive powers and to transform it into a supra-national organ which would direct the activities of States on the sea-bed. Obviously they imagined that the machinery, and the immense powers they proposed to grant to it would be controlled by them and used in their interests. That approach also was unrealistic. In present-day conditions, when States insisted on their sovereign rights, the international community could create organizations only to coordinate the activities of States and not to direct them.

His delegation had serious reservations about the proposal that the machinery itself should be allowed to engage in the exploitation of the sea-bed and the ocean floor. The purpose underlying that proposal was, in fact, to establish some kind of international consortium which would act as a separate entity in international relations, on the same level as States. The leading role in any consortium of that kind would undoubtedly be played by the major imperialist monopolies which provided the technical and financial resources for sea-bed activities. In spite of the good intentions of the sponsors of the proposal, the real power would be exercised by the very forces from which the sponsors were hoping that the machinery would protect them.

In the Soviet delegation's view, the functions of the international machinery should be to verify compliance by all States with the undertakings assumed under the treaty on the sea-bed régime, to promote the rational exploitation of the mineral resources of the sea-bed, and to take measures to prevent pollution. In the structure and the actual operation of the international machinery, due consideration should be given to the interests of all States, and any possibility of undertaking activities in the interests of some States or groups of States, to the detriment of the interests of other States, or groups of States, should be entirely excluded.

Mr. PARDO (Malta) said that the formulation of draft treaty articles on an international régime for the sea-bed beyond the limits of international jurisdiction was only part of the Committee's task under resolution 2750 (XXV). The Committee had in fact been empowered to undertake a review of the entire law of the sea.

The task was so vast, so complex and so intimately concerned with the vital interests both of the international community and of individual States that the Committee would face disaster if it approached it in terms of obsolete concepts and traditional legal categories. Success could only be expected through an objective analysis of contemporary trends in the utilization of the oceans and an understanding of the vital interests of all concerned, combined with a willingness to seek new solutions to old problems.

Man had also recently acquired the technological capability to change the ecology of areas far removed from the site of his intervention; thus, the construction of the High Dam at Aswan had brought about changes in the ecology of the Eastern Mediterranean that had adversely affected fisheries. Under present international law, such actions by a State within the limits of its national jurisdiction were legitimate, and unless international law were changed, it was likely that technological capability would be used more and more to the advantage of some and to the detriment of others.

Technological advance now made it possible to use and exploit the marine environment for an increasing variety of purposes; it was also making ocean space increasingly vital for defence purposes. Even navigation was undergoing changes. The huge tankers which carried up to half a million tons of petroleum had to follow deep water channels in shallow seas and if one of them were sunk, it could pollute the seas over thousands of square miles. And now huge submersible tankers were planned.

The nature and intensity of the use of the marine environment for fishing had also changed. Small boats with primitive gear were being replaced by fishing fleets equipped with appliances for locating and catching concentrations of fish, with the result that the world fish catch had trebled over the past fifty years to over 65 million tons.

The living resources of the sea, however, were being endangered by such intensified exploitation. Some whale stocks had been virtually exterminated, while according to reports from FAO and the International Commission for the Northwest Atlantic Fisheries, the harvesting of cod, haddock and herring had reached a level beyond which further increases in fishing gave no sustained increases in total catch. Salmon too was showing signs of depletion in the north Atlantic. In a natural response, major fishing fleets had started to exploit more distant stocks of fish, but that could only be a temporary move because substantial unexploited stocks of desirable fish were few and because it forced developing coastal States to extend their jurisdiction unilaterally to ever greater distances from their coasts in order to protect the interests of their nationals.

Apart from over-exploitation and excessive competition, however, fisheries had also to contend with the problems of increasing contamination and developing exploitation of mineral resources. Until very recently, the sea-bed and the ocean floor and their subsoil had been regardedaas of no practical interest except as a support for submarine cables and pipelines. As late as 1956, the International Law Commission had expressed the view that the exploitation of areas beyond the continental shelf "had not yet assumed sufficient practical importance to justify special regulation."2/ The rapid development of technology however, had now made possible the effective exploration of sea-bed areas far beyond the geological continental shelf. Such exploitation required heavy investments of capital and revolutionary technological developments were expected soon. The attractiveness of sea-bed mineral exploitation had been enhanced by the actions of certain oil or copper exporting countries. Oil price increases had led to to an acceleration in investment in the development of alternative sources of energy and in the search for off-shore deposits while, copper companies which had been deprived of their mines were accelerating the development of advanced technology for the economic harvesting and extraction of copper from manganese nodules.

There were many other new uses of the seas that had important legal implications. Huge storage tanks had been constructed on the sea-bed to facilitate the loading and unloading of giant tankers. Under-sea villages to house technicians exploiting mineral resources would become a reality before the end of the present decade. Many mines extended from land to the subsoil of the seas, but little was known of the mineral resources under the floor of the abyss. That such resources existed was probable and exploration was proceeding, and if rich deposits were found, a specific technology for their exploitation was bound to be developed.

It was high time to recognize that the seas would soon be used for purposes as varied as land and would become as much a part of man's living space as, for instance, the Arctic. That revolution was the consequence of the application of advanced technology to an environment vital to the maintenance of the world balance of terror and of the resources essential to the world's growing populations and industries. It made it necessary to think of the seas and oceans in terms not of sectors divided by fictitious legal lines but of ocean space as a unit comprising the surface of the seas, the water column, the ocean floor and its sub-soil, and to fit into that global concept

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2/ See Yearbook of the International Law Commission, 1956, vol.II (United Nations publication, Sales No.: 1956, V.3, Vol.II), p. 278.

the protection of the interests of the coastal State in their totality without attempting useless distinctions as to their nature. The decision by the General Assembly to hold a general conference on the law of the sea in 1973 offered a unique opportunity to replace by one comprehensive régime the present multiple international legal régimes governing the various activities of States in the seas.

Under contemporary international law, the activities of States in the oceans beyond a narrow zone were governed by the principle of the freedom of the high seas, as expressed in article 2 of the 1958 Geneva Convention on the High Seas. The exercise of that freedom was subject to a reasonable regard for the interests of other States and the provisions of the 1958 Geneva Conventions and of various bilateral and multilateral agreements on fisheries.

Despite some limitations, the present international régime of the oceans was thus designed to protect the right of all States to use all parts of the sea not included in the territorial sea or in the internal waters of a State in whatever manner and for whatever purpose they might think best.

Few States had effectively implemented the obligations arising from articles 24 and 25 of the 1958 Convention on the High Seas: a number of conventions had been concluded on the pollution of the sea by oil but enforcement of their provisions was far from perfect and signatories were comparatively few. There was no agreed legal régime for the sea-bed beyond a controversially defined continental shelf, and it must be assumed that States enjoyed virtually total freedom beyond the legal continental shelf.

Present régimes of the seas were based on a number of assumptions, including; first, that there could be no real danger of adverse change to the seas as a result of man's activities; secondly, that the living resources of the seas were so great that the possibility of their depletion was small; thirdly, that mineral exploitation of the sea-bed beyond the limits of national jurisdiction was so unlikely as not to require regulation; and fourthly, that the ocean space was so vast that there was virtually no danger of serious conflict of use. Those assumptions were, however, being daily invalidated by reality so that the very foundations of contemporary international law of the sea were being undermined. Unregulated freedom beyond a narrow zone of national jurisdiction had adverse effects on the interests of many coastal States; navigation could not remain unregulated in narrow seas like the English Channel; fish stocks could not remain unmanaged; exploitation of mineral resources of the sea-bed also needed management and recognized title; and some recognized jurisdiction was necessary to harmonize different uses in some areas of the marine environment.

The lack of agreed internationally recognized institutions with power to administer ocean space constituted a serious gap in the present law of the sea. That lack of authority led coastal States to seek to alleviate the most direct adverse consequences of the present régime of freedom by extending their national jurisdiction, either to conserve the living resources of the adjacent seas, or to avoid marine pollution, or to regulate navigation for security reasons. But jurisdiction extended for a limited purpose inevitably transformed itself into a claim for more comprehensive rights in view of the increasingly interlocking nature of the uses of ocean space.

The encroachment of coastal State jurisdiction over areas of ocean space formerly open to all was facilitated by the lack of an agreed definition of the limits of the territorial sea, the contiguous zone, the continental shelf and conservation areas for the living resources of the sea. It would be unrealistic to expect any wide international agreement on a clear definition of those various limits merely by means of slight amendments to the existing Conventions on the Law of the Sea, since the lack of any international authority and the freedom that States would have to continue to use and abuse the high seas would force coastal States to retain the right to protect their vital interests by unilateral measures.

Present trends, if unchecked, could only lead to the gradual disappearance of the high seas and the ultimate partition of ocean space. Study of the world map showed that, if ocean space were partitioned on the median line principle, some twenty coastal States could between them claim three-quarters of the world's ocean space. And because of the crucial role of islands in present international law, Africa and continental Asia would, with the exception of a very few countries, be the great losers in the event of a partition of ocean space. Virtually uninhabited Arctic and sub-Antarctic islands could give their respective possessors the right to claim jurisdiction over millions of square miles of ocean space. The possession of St. Paul's Rocks, Fernando de Noronha, Trinidade and Martin Vaz, all virtually uninhabited, could more than double the potential claims of Brazil to ocean space. His delegation had calculated that potential claims based on the possession of islands inhabited by a total of less than 3 million people could cover nearly two-thirds of world ocean space.

The absurd results of claims founded on the possession of reefs or minute islands were unlikely to restrain the progressive trend towards a division of ocean space. Since, however, less than two dozen States would be the real gainers from that division, the overwhelming majority of the international community was certain to oppose it. The

balance of interest of nearly half the States with the widest potential claims was best served, not by maximizing claims to exclusive jurisdiction, but by preserving the possible freest use of ocean space over the widest possible area.

The international community had reached a crossroads. There were only two choices open to it. The first was to continue the existing régimes of ocean space, which would lead to encroachments without limit by the coastal States on that part of ocean space that was still open to the access of all, resulting in serious conflicts and virtual anarchy. The second was to establish an international régime and international institutions that would provide expanding opportunities to all States in their use of the marine environment and its resources. Authority, management, regulation and equitable distribution of benefits had become as essential in the oceans as they were on land. An international régime and international institutions should be created to administer ocean space beyond national jurisdiction. His delegation therefore believed that it would be a mistake to follow the 1958 Geneva pattern of adopting different conventions for different parts of the ocean space and for different uses of the sea. What was needed was only one basic international treaty to govern all the activities of States in ocean space as a whole.

That conclusion was based on a number of considerations, which included the fact that a multiplicity of régimes and limits would be an obstacle to the rational use and development of the marine environment and a source of confusion and legal argument, contrary to the interests of all States. For example, the different régimes to which sedentary and non-sedentary fish stocks were at present subject had caused more disputes than the issue was perhaps worth. Moreover, a number of partial conventions, which would not all be signed by the same States, could perpetuate anarchy and give rise to disputes.

The basis treaty should consist of several parts: general norms governing the activities of States in ocean space as a whole, whether within or outside national jurisdiction; a clear and precise definition of the outer limits of the coastal State's jurisdiction in ocean space, without the present distinctions between the territorial sea, the continental shelf and other areas; general norms governing the activities of States in the area beyond the limits of coastal State jurisdiction; specific norms governing conservation and exploitation of resources beyond national jurisdiction; norms for the equitable distribution of benefits; and provisions concerning scientific research and the preservation of the marine environment. In addition, the treaty should

set up appropriate institutions not merely for the sea bed but for ocean space beyond national jurisdiction, define their powers and establish an impartial mechanism for the interpretation of the treaty.

In short, the C mmittee's task was not merely to review the provisions of the existing law of the sea but to create a new international order of an institutional character for ocean space beyond national jurisdiction, based on the concept of the common heritage of mankind and incorporating such provisions of existing régimes as might still appear to be viable. Such an order was essential because, under modern conditions, no State could by itself protect its interests in ocean space outside its jurisdiction.

Success in the extremely difficult task of building that order could not be expected unless the concepts and assumptions on which it was based reflected present realities and unless, despite the political and ideological divisions of the world, the universality of the law of nations was maintained.

He said he would continue his statement at the next meeting.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE FIFTY-SEVENTH MEETING

Held on Tuesday, 23 March 1971, at 3.20 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (continued)

Mr. PARDO (Malta), continuing the statement he had begun at the previous meeting, said that when a society was unable to develop the legal concepts governing the activities of its members in accordance with the changing nature and intensity in the use of its national environment, the result was either gradual decay or sudden disappearance. The same rule applied to the marine environment.

The new international order had to be based on concepts and assumptions that reflected as closely as possible present or clearly foreseeable reality. Man was now capable of causing irreparable contamination of ocean space which was an ecological system vital to life; he had the technological capacity to cause extreme changes in the marine environment over vast areas far from the site of his intervention; by irrational exploitation, he could deplete the vast and hitherto renewable living resources of the sea. Large-scale exploitation of virtually inexhaustible marine mineral resources might seriously affect land producers. Finally, in the absence of authority, progressively intensive exploitation of the marine environment would lead to increasingly frequent conflicts of use.

Without necessarily enjoying the unanimous support of the international community, the new international order would have to be the product of co-operation between States and have the support of countries of all groups, developed, developing, capitalist and socialist, representing both number and power. It would have to balance different needs and interests, and take into account both the acquired rights of coastal States in the marine environment adjacent to their coasts and the interests of the community of nations in that part of ocean space which was still beyond existing national jurisdiction. It would also make possible the full utilization of scientific and technological advance through a rational management of ocean space beyond the limit of national jurisdiction and the development of its resources for the benefit of all countries.

Without detailing what general or specific norms should be included in the treaty, it could be said that the new legal structure must offer coastal States opportunities and advantages that could not be obtained through mere unilateral extensions of national jurisdiction. Such a structure would allow them to utilize, in regulated freedom, ocean space beyond precisely defined limits of national jurisdiction, to settle

conflicts of use, to take effective action to control pollution, to conserve living resources and to avoid waste. The institutions responsible for administering the régime would have to exercise powers of administration, management and regulation not previously granted to any international organization. States would naturally wish to be assured that the institutions would act impartially and without discrimination, and that their decisions would be implemented. That implied that they would only be able to act with the concurrence, or at least the acquiescence, of the preponderance of world opinion, measured in terms of properly represented population and power; the principle of one nation one vote would have to be replaced by a system that would ensure an equitable balance between the interests of the different countries. Since the new institutions, if they were to be useful, would have to enjoy powers greater than those of the United Nations General Assembly, it would be necessary to avoid subjecting them to General Assembly control in the same way as most of the specialized agencies. Furthermore, the new institutions would have to take over the responsibility for the scientific, technical and other activities in ocean space, with few exceptions, at present undertaken by the various United Nations agencies. Beyond the limits of national jurisdiction, the institutions would have to exercise jurisdiction, not sovereignty, in the name of the international community.

The most frequent reason why many coastal States were now unilaterally extending their national jurisdiction, was to protect themselves from the competition of other States in the exploitation of fish stocks. The danger of depletion of some fish stocks and the need to protect certain species threatened with disappearance had been recognized more than sixty years ago, but nothing much had been done before the second world war, apart from the Conclusion in 1930 of the convention between the United States and Canada, setting up the International Pacific Salmon Fisheries Commission. The inter-governmental bodies since established to look after fisheries had widely differing functions and powers, so that the only conservation measures they could take, in many cases, were to improve limits or prohibitions, and compliance often left much to be desired. FAO studies had shown that the decisions of those bodies were to a large extent either ineffective or economically wasteful.

Effective management of fisheries could only be undertaken through institutions that had the power to allocate the right commercially to exploit fisheries beyond the limits of national jurisdiction, to set the conditions under which exploitation could take place, and to levy a tax or licence fee on commercial fisheries in international

waters. That was the solution suggested by FAO in its booklet State of World Fisheries[1/] and if it were adopted by coastal States, the problem of world fisheries would be well on the way to being solved to the benefit of the fishermen, of the coastal States - which would then be able to reduce or eliminate subsidies to fishing operations and also of the international community.

The bulk of the proceeds of the sale of licences for the international area could accrue to international institutions and be used for the benefit of coastal States not participating in commercial fisheries beyond the limits of their national jurisdiction.

Finally, the new international institutions should be completed by the creation of agreed judicial mechanisms, including a geographically balanced tribunal for the interpretation of the fundamental norms contained in the treaty governing the activities of States in ocean space, and for the settlement of disputes not solved by the means provided in Article 33 of the United Nations Charter.

The institutions envisaged would perhaps give the regional inter-governmental bodies already concerned with ocean space the direction and focus which they lacked and strengthen future regional agreements. Provided full advantage was taken of the co-operation of member States, the creation of those institutions should not mean a proliferation of bureaucracy, which was something to which the Maltese delegation had always objected.

However, it would be useless to set up a new régime for ocean space and new international institutions without defining clearly the words "beyond national jurisdiction".

At the present time, there were four distinct limits to coastal States' jurisdiction in ocean space: the outer limit of the territorial sea, the outer limit of the zone of the high seas contiguous to the territorial sea, the outer limit of the zone adjacent to the territorial sea, and the outer limit of the continental shelf as defined in article 1 of the 1958 Convention on the Continental Shelf. Those limits were all the subject of international controversy, and in practice coastal States defined them unilaterally or through bilateral or regional agreements. But, even if agreement were reached for one purpose, it would not prevent coastal States from extending their jurisdiction for other purposes so that after a few years revision of the limits on which agreement had been reached would be inevitable.

1/ FAO, series World Food Problems, No. 7, 1968.

In any case, existing international law was largely obsolete or obsolescent, and his delegation saw no necessity, under contemporary conditions, for retaining the useless and disputed concepts of territorial sea, contiguous zone, fishery zone or legal continental shelf. The time had come to consolidate the multiplicity of limits of coastal State jurisdiction in ocean space into a clearly defined outer limit of national jurisdiction that recognized and satisfied the totality of the interests of the coastal State in the marine environment.

For a variety of reasons, which he reviewed, such as exploitability, geophysical criteria, and depth of the sea, the concepts of "natural" boundary and "adjacent" zone could not be adopted as criteria to define the limits of the area beyond national jurisdiction. His delegation felt that the only applicable criterion was distance from the coast, and that would have to be fixed in the light of existing international law - whether customary or conventional - agreements between States, national law and the practice of coastal States.

On the assumption that there were 135 members of the international community, his delegation had calculated how many of them could, if they so wished, extend their jurisdiction in ocean space to 300 miles or to 150 miles. It had found that the maximum limit which need be suggested was somewhere between 200 and 250 nautical miles from the coast. In view of the need to protect the interests of the international community over the widest possible area of ocean space, and in view of the fact that certain coastal States had already extended their jurisdiction to 200 nautical miles from their coasts, his delegation had reluctantly concluded that, to avoid prolonged haggling, it was necessary to fix a distance of 200 miles from the nearest coast as the outer limit of coastal State jurisdiction in ocean space, and that was the case it would support.

There were three or four States that might have legitimate claims beyond that limit, based on the depth criterion of the 1958 Geneva Convention on the Continental Shelf and, if moderation were shown, their interests might be fully recognized. Those States would gain, moreover, by recognition of their claims to jurisdiction over the living resources of an area of the sea, which were at present contested and dubious. In addition, transitional arrangements could be made to provide ample compensation, should areas that they now considered part of their continental shelf be exploited under international auspices.

Recognition by an international treaty of a universal character, of the 200 miles limit would enable international institutions to start working usefully, but there would remain the question of baselines and of the extent of jurisdiction that could legitimately be founded on the possession of islands.

Consideration should be given to the question whether the methods for determining the baselines of the territorial sea mentioned in the 1958 Convention on the Territorial Sea and the Contiguous Zone should be reviewed and, in any case, carefully drafted provisions on that subject should be included in the future international treaty.

The 1958 Conventions generally did not make distinctions between methods of determining the territorial waters and continental shelves of islands and of continental coastal States. But it was now imperative to distinguish between archipelagos and islands that were independent States or could become independent States, and those that could never become independent States. A distinction must also be made between islands in close geographical proximity to the coast and isolated islands, and it must be decided whether rocks and shoals were islands for the purpose of fixing jurisdiction limits. If a 200 mile limit of jurisdiction could be founded on the possession of unihabited, remote or very small islands, the effectiveness of international administration of ocean space beyond national jurisdiction would be gravely impaired. Furthermore, such islands sometimes had a scientific interest or economic importance out of proportion to their size by reason of the existence of substantial fisheries or mineral resources in their neighbourhood. For instance, possession of the Senkaku Islands, which were scarcely more than sandbanks and until recently were visited only by fishermen, was hotly disputed between three or four countries since it had been found that the area could supply perhaps as much as 10 per cent of the petroleum requirements of Japan.

That meant that, in order to fill the gaps in the simplistic solutions of 1958, any future international treaty must include an article to the effect that any claim to jurisdiction over ocean space founded on the possession of islands should be given priority consideration in the context of the international institutions. The problem would be simplified if a host of reefs, rocks, sandbanks and uninhabited islands were to be loaned or donated by their possessors to the future international institutions for utilization as international scientific research stations, bird, mammal or fish sanctuaries, experimental fish-breeding centres, and similar purposes.

While supporting a 200-mile outer limit, the Maltese delegation believed that, in view of contemporary technological advance and rapid industrialization, some legal limitation should thenceforth be set to the virtually total freedom that States at

present enjoyed within the area subject to their control, though there was obviously no question of abolishing the sovereignty of States. The proposed international treaty should include both general and specific provisions on that subject and specify that any disputes should be referred to the judicial machinery it would establish. It should also provide for consultation between neighbouring States and for notification to the international institutions in the event of a coastal State proposing to make use of its technological capability in a manner likely significantly to change the climate or the natural state of the marine environment outside the area subject to its jurisdiction. In addition, the coastal State should be held internationally responsible for any activities undertaken in the area within its jurisdiction that might cause pollution or hazards in the marine environment outside its jurisdiction.

Scientific research was the sine qua non for the development of the oceans for the benefit of mankind. It must consequently enjoy maximum freedom. The provisions of the 1958 Geneva Conventions, particularly paragraph 8 of article 5 of the Convention on the Continental Shelf, were not clear enough. Recently a tendency had appeared for some states to subject research proposed to be undertaken in the marine area they claimed to be within their jurisdiction to numerous hampering bureaucratic formalities. His delegation did not believe that the distinctions made by the Committee between research for peaceful purposes and research for military purposes and between pure research and research for the exploration of resources were particularly useful. The only effect of such distinctions was to give coastal States, and perhaps also the international institutions, additional pretexts to hinder, by burdensome regulations, activities that could only be useful. Moreover, as nobody could know how the knowledge acquired from any given discovery would be used, the distinction between research for peaceful purposes and other research was practically meaningless. Moreover, it was hard to distinguish between pure research and research leading to the discovery and exploitation of resources.

For those reasons, his delegation favoured total freedom of research in the international area of ocean space, subject to (1) reasonable notice, (2) to the possibility of officials of international institutions participating in such research, (3) to publication of the results and (4) to reasonable care being taken to avoid unnecessary disturbance of the marine environment. It would also favour total freedom within the area of ocean space subject to national jurisdiction under the same conditions, mutatis mutandis, and of course with the additional obligation to abide by the health, customs, police and security regulations of the coastal State.

With regard to navigation, the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone authorized "passage [...] not prejudicial to the peace, good order or security of the coastal State."[2/] That provision had given rise to a somewhat elastic unilateral interpretation. In peacetime international trade and intercourse required that the interests of navigation should prevail over those of coastal States. The change in the nature and intensity of that use of ocean space demanded some regulation; it must, however, remain of a general nature, be applied impartially to all users of ocean space through the international institutions. That was why his delegation would like the right of innocent passage to be strengthened in the future international treaty by recognizing the right of all States to bring to the attention of the future international institutions any unreasonable restrictions on the right of innocent passage through waters subject to the jurisdiction of the coastal State.

If the 200-mile limit were adopted, some expanses of sea less than 400 miles wide would fall entirely within national jurisdiction, and that would render a reasonable solution to the problem of navigation through straits more difficult. States bordering enclosed or marginal seas yearned for free access to the sea while countries controlling straits had often taken advantage of their position for their own economic or political ends. Over the centuries, some practical accommodations had been reached but the situation appeared to be changing partly as a result of the unilateral decision of certain States to extend their jurisdiction over waters previously considered part of the High Seas and partly owing to the need to regulate modern navigation in comparatively narrow seas.

His delegation believed that the future international treaty should create a special régime for straits that would be guaranteed through the international institutions. A distinction should be made between straits that were the only or the main access to internal seas or gulfs of particular importance for navigation or international security, and those that constituted only one of several entrances to marginal seas or which gave access to seas where navigation was hazardous because of climatic conditions.

With regard to the first category - Tsushima, Gibraltar, The Sound, Bab-el-Mandeb, Tiran and Hormuz, for example - the interests of the international community were so strong and the rights of inland coastal States to free access to the oceans so vital,

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2/ See United Nations, Treaty Series, vol. 516, p. 214.

that navigation should be regulated exclusively, apart from cases of extreme emergency, through the future international institutions that would also guarantee freedom of transit in peacetime. In view of the limitations that such a régime would impose on the coastal State, the number of straits involved should be strictly limited, and each should be mentioned by name in the international treaty.

The second category of straits was not so important to international peace and security and his delegation recommended an intermediate statute between the freedom of the innocent passage suggested for the entire ocean space subject to national jurisdiction and the international régime guaranteed by the international institutions for the most important straits.

His delegation strongly supported the maintenance in the international area of ocean space of the freedom to lay submarine cables and pipelines and the freedom of overflight already guaranteed by the 1958 Convention on the High Seas. In the areas of ocean space under national jurisdiction it favoured a provision that the permission of the coastal state must be obtained but should not be unreasonably with-held.

As a 200-mile limit would place immense resources under national control with the assent of the international community, it would be only right that the use of that gift to a minority of coastal states be matched by certain reasonable limitations and that a portion of the financial benefit derived therefrom should be contributed to the international community.

The future international institutions should be notified by coastal states of the issue of licences for the exploitation of sea-bed minerals in a zone adjacent to the international areas of ocean space and should have the right of veto thereon in order to harmonize their licensing policies with those of the coastal State, to prevent international or parastatal operators from acquiring exploitation rights over excessive areas of the sea-bed under different names, and to ensure that a petroleum deposit, for example, was not exploited simultaneously from both the national and the international area of ocean space.

It would suggest four zones for fixing the financial contribution of coastal States to the future international institutions: first, a zone extending up to 100 miles from the coast, and for that zone no financial contribution from the coastal State would be required; secondly, a zone between 100 and 150 miles from the coast, and for that zone 25 per cent of the revenue from the exploitation of living and non-living resources would be contributed to the international institutions; thirdly, a zone between 150

and 175 miles, from the coast, and for that zone 50 per cent of the revenue would be contributed, and finally a zone between 175 and 200 nautical miles, from the coast, and for that zone 75 per cent of the revenue would be contributed. Assuming the institutions were created in 1974, from 1979 onwards they might receive about US$600 million a year from fisheries, $200 million from hydrocarbon deposits and $100 million from manganese nodules, or say, after deducting administrative and personnel expenses, some $800 million net.

His delegation did not envisage a simple distribution of those funds to States which they would in all likelihood use to cover their immediate financial needs instead of using it to secure lasting benefits. The net income should be used to provide services in the marine environment, - of which the immediate main beneficiaries would be the developed maritime countries, - such as publishing scientific studies and marine maps, marking ocean shallows, monitoring the marine environment, maintaining a network of international scientific stations and marine parks (20 to 30 per cent). In landlocked countries it should be used for studying the efficient use and improvement of the human environment, preferably, but not necessarily, in matters relating to lakes and rivers (about 20 per cent); in developing coastal countries, it should be used to provide the means for the efficient and productive use of the ocean space under their jurisdiction by more intensified training, purchase of expensive equipment and building a scientific and technical infrastructure (50 per cent).

With regard to military uses of ocean space, for the time being he would merely say that to safeguard the future, the proposed international treaty would have to include a provision permitting the international institutions to undertake such functions as the powers concerned might agree upon.

He thought his delegation's suggestions were the only ones likely to lead to a sufficiently broad agreement to justify convening a conference on the law of the sea and he would like to issue a warning against certain disturbing suggestions that had been discussed informally.

In the first place, some believed that time was on the side of the developing countries and that, by intransigence, they could oblige the developed countries to give in. That was not so, for if no international régime had been adopted within five years at the most, it would be virtually impossible to reach any reasonable accommodations. Moreover, developed countries were not a bloc, and also advanced maritime countries would not agree to pay a price for an international régime which did not offer them some advantage.

Then there were those who had maintained that the developing countries should wait until they were better prepared technically, yet a minimum of three or four years' specialization was needed to train experts in marine science and technology. Moreover, few developing coastal States were in a position to strengthen their technical capabilities immediately. The available bilateral or international assistance could only marginally alter the situation. During that time, ocean space technology would undergo a total change. Consequently, if developing coastal countries decided to wait, they would find themselves even worse off technically in a few years' time. Only massive financing through the new international institutions was likely to narrow the technological gap.

Thirdly, some would prevent the exploitation of resources beyond the limits of national jurisdiction, but nobody knew where national jurisdiction ended, and a few developing countries were even among the first to claim that a coastal State could determine those limits unilaterally.

Lastly, there were those who rejected in principle any system of weighted voting within the future international institutions. International institutions could not be created with the desired powers - i.e., powers broader than those of the existing specialized agencies - unless they had a flexible and balanced voting system. Without that, their powers would be illusory.

With regard to the organization of work, the question of the issues referred to in General Assembly resolution 2750 C (XXV) would become irrelevant if his delegation's approach was accepted. To construct a new order in ocean space, all issues needed to be discussed, and if necessary the relevant articles drafted. The question of priorities was secondary; the only sensible course was to proceed simultaneously on all fronts to the greatest extent possible. The work of the three Sub-Committees should essentially consist in drafting articles which offered concrete solutions to the problems of ocean space. If the Sub-Committees could not devise a unanimous solution to a particular problem, they should present the Committee with three or four alternative solutions. The Committee would then try to narrow the selection, but it was quite possible that it would be left to a general conference to choose between two or more sets of draft articles.

He praised the co-operation which the United Nations Secretariat had given the Committee and hoped that closer co-ordination would be established with various United Nations agencies. The Secretary-General of the United Nations might usefully appoint a secretary-general of the future conference on the law of the sea to co-ordinate the preparatory work, as he had done for the United Nations Conference on the Human Environment.

Mr. CUDJOE (Ghana) quoted General Assembly resolution 2750 C (XXV), which instructed the Committee to carry out preparatory work for the third conference on the law of the sea. He said the task was enormous and that its success would depend very largely on what methods of work were adopted.

His delegation therefore attached great importance to the organization of work. It welcomed the fact that the Committee had reached tentative agreement on the subject, after two weeks of difficult negotiations. Ghana was also glad that the session had begun with a general debate, which enabled old members of the Committee to re-state or clarify their positions on important issues and new members to give their views on the complex problems of the law of the sea.

The first of the controversial issues covered by the agreement on the organization of work was the question of priority. Resolutions 2574 A (XXIV) and 2570 C (XXV) showed that the General Assembly gave priority to the establishment of an international régime. The same position was set forth in the Lusaka Declaration, adopted at the Third Summit Conference of Non-Aligned Countries. His delegation took a similar view, but thought, as the Ceylonese representative had said at the forty-seventh meeting, that giving priority to that task did not mean drafting treaty articles on the régime before discussing the limits of national jurisdiction. The delimitation question could be taken up as soon as a memorandum of understanding was adopted on the essential elements of the régime, and references to the question could be made in the Committee and the Sub-Committees even before that stage.

With regard to the nature of the régime, his delegation thought that the basic principles - particularly the concept of common heritage - contained in the Declaration of Principles [General Assembly resolution 2749 (XXV)] should be defined and elaborated for incorporation in a convention on the international régime. There was obviously a close connexion between the character of the régime and the question of limits, which was the second controversial issue. If agreement could be reached on a strong régime and machinery, a fairly large number of States would accept relatively narrow limits of national jurisdiction. Ghana itself favoured the principle of a régime and machinery with wide powers.

As far as the question of the area beyond the limits of national jurisdiction was concerned, his delegation welcomed the fact that, under the Agreement on the organization of work, the Sub-Committees could consider the question in connexion with the matters allocated to them. It understood that to mean that each of the three Sub-Committees

and the main Committee would be free to discuss the question whenever they felt it relevant. His delegation's immediate view was that recommendations on the subject should be formulated by Sub-Committee I, but the question was highly complex and the Committee should not take a hasty decision on the matter.

The third controversial issue was the question of the peaceful uses of ocean space. Ghana attached considerable importance to the subject and had been among the first signatories to the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Sub-soil Thereof. It hoped that the provisions of that instrument would eventually cover the whole of the marine environment. The Committee might perhaps allocate that question to Sub-Committee III, which had a relatively light programme of work, and along with it the question of training and assistance for developing countries in marine science and technology.

With reference to the list of subjects and issues relating to the law of the sea which aroused less controversy, his delegation welcomed the fact that Sub-Committee II was authorized to draft articles before completing that list. He thought the list should include the questions left unsolved at the 1958 and 1960 Conferences, in particular the topic of the breadth of the territorial sea and the issue of the preferential rights to be accorded to coastal States in waters adjacent to their territorial sea. Ghana, which was the second most important West African fishing state, had a rapidly growing fishing fleet operating on the high seas and in waters adjacent to its own territorial sea and that of other States. Thus, it was both a distant-water and a coastal fishing State. It therefore hoped for a solution which would be satisfactory in respect of both aspects of its fishing industry.

Ghana was a member of IOC (UNESCO), of the Committee on Fisheries of FAO, and of IMCO, and had been participating actively in the work of United Nations agencies to regulate fisheries. It supported the Icelandic delegation's proposal that the specialized agencies should provide the Committee with technical services and that the Committee should seek expert assistance from, inter alia, IOC, IMCO and the FAO Department of Fisheries.

Mr. IMRU (Ethiopia) expressed his conviction that the Committee was embarking upon a task of delicate negotiation with the objective of laying a sound and equitable basis for a unique experiment in international co-operation. The technological advances which were making the exploitation of the sea-bed practical prompted the question of

whether its exploitation, in those areas beyond the jurisdiction of the nation-State, should be subject to international discipline or freely open to all. What form or forms of international order should be adopted was subject to negotiation but the need for some such order was not disputed. The first question to ask was whether past successes at international co-operation inspired sufficient confidence to warrant an attempt at a new venture. The international consensus as expressed in United Nations resolutions on the subject gave a fairly positive answer to that question. However the degree, magnitude and level at which international co-operation should be organized remained to be examined and negotiated, a fact which made the Committee, despite its size, a negotiating body rather than a primarily debating one. If negotiations did not yield worthwhile results, it would mean that the essential degree of mutual trust and confidence was lacking, indicating the critical stage the small nation-State had reached in its historical development. Confronted by the emergence of the super-Powers, faced with the organization of economic and customs unions with varying degrees of successful integration, both in the developed and the developing world, the strength, stability and interest of the small and medium sized nation-States, whether coastal, shelf-locked or landlocked were being steadily eroded. The question that arose was how the small nation-State could advantageously undertake tasks such as the exploitation of the resources of the sea-bed and ocean floor through co-operation at the regional or international level. Regional economic integration could make the small nation-State, within its region, economically viable and industrially efficient enabling it gradually to acquire command of rapidly advancing technology. New international régimes and institutions made necessary by advancing technology must take into account the legitimate needs of all nation-States, the imperatives of a balanced and accelerated world-wide economic development and the requirements of a fair balance between national, regional and global interests. International co-operation in this sphere must acquire its full significance in terms of the dire economic problems of the contemporary world and the marked disparities in standards of living which still defied solution. Could we succeed in establishing an international régime for the efficient exploitation of the resources of the sea-bed and the ocean floor that could make some contribution towards solving the problems of accelerated and balanced development, especially in those parts of the planet, where opportunities were abundant, but where for historical and other reasons countries found themselves at an economic and technological disadvantage.

The question was whether the international community was still animated by the appetites, fears and suspicions of the past or whether it was outgrowing the old attitudes of mind, conscious of the economic and social realities of our contemporary world and groping its way towards new forms of co-operation that were both relevant and effective. To achieve that it would be necessary to create a viable international machinery as part of a new régime for the exploitation of the resources of the sea-bed and the ocean floor.

It remained to be seen whether there should be one machinery or several and at what levels. In the view of Ethiopia no matter what the limits of the territorial sea, the continental shelf, freedom of fishing in the high seas might be, the principle of having one régime would have to be accepted if it was desired to make it operational. Moreover, Ethiopia considered that the developing countries should enjoy exclusive fishing rights in their territorial waters and the seas of their regions as well as equal fishing rights in the territorial waters of the developed countries. Fisheries could be an important segment of the economies of developing coastal countries. Technologically the fishing industry in many developing coastal states was still at an early stage of development and could therefore present no threat to the fishing industry of the developed countries.

In considering questions related to the law of the sea, the Committee would have to bear in mind the special problems of the developing countries, many of which had won independence during the last ten years, and, not having participated in the 1958 and 1960 Conferences, would need to defend their interests during the Committee's deliberations and at the next conference on the law of the sea. Any convention on the territorial sea or the high seas would have to take into account the security interests of all States; freedom of navigation could have meaning only in that context. Scientific research, peaceful uses and the preservation of the marine environment could also infringe on national security but could become a source of co-operation rather than dispute only when conducted under the supervision of states in areas within their jurisdiction.

If the advantages derived from the exploration and exploitation of the sea-bed and the ocean floor were to be shared equitably between the members of the international community, the developing countries would have to participate actively and effectively in the operations concerned. Since those countries possessed neither the necessary technical know-how nor the requisite financial resources, Ethiopia supported the idea of

providing them with research and training institutions; in addition, there was so little capital that developing countries were unable to invest the necessary sums for the exploitation of the resources of the sea-bed. The attention of international financial institutions must therefore be drawn to the need for granting loans and credits to multi-national undertakings on favourable terms.

His delegation noted with satisfaction that the tasks of the Committee and its three Sub-Committees had not been framed too rigidly. Unsolved problems such as priority should not prevent the Committee and its Sub-Committee from starting to discuss the subjects allocated to them and from resolving differences of opinion wherever possible. The word "priority" had been interpreted in various ways. Some took it to refer to the order in which subjects should be discussed, others to the idea that a régime, including an international machinery, should be established before the question of national jurisdiction was considered - the character, status and structure of the international machinery might very well influence the decision on national jurisdiction - and vice versa, but his delegation did not think that those points should dominate the Committee's proceedings. It would be better to regard them from the outset as procedural matters and get down to the substantive questions.

From both the security and economic points of view, it was widely acknowledged today that the nation-State should share a measure of its sovereignty with its neighbours, with regional organizations and at the international level. Without forgetting the greatness of its past, Ethiopia could discern the needs of the future and was determined to adapt its requirements and master its techniques, so as to ensure that it could participate viably in complex undertakings.

Mr. KABBAJ (Morocco) said that his country, with its long coastline on both the Atlantic Ocean and the Mediterranean, had a very special interest in marine and ocean matters and was guided by three principles: the need to ensure the progressive development of international law in accordance with the United Nations Charter; the need to promote international co-operation for the better utilization of marine resources in the interests of mankind as a whole, and particularly of the developing countries, whether coastal or landlocked; and the right of every State to safeguard its economic advancement and development and to watch over its security within the limits of international law.

There was no doubt that, since Grotius, the law of the sea had evolved a great deal. The Conventions adopted at Geneva in 1958, which were the outcome of that evolution, were

no longer considered sacrosanct today, for the past decade had been characterized by important changes and the advent of new problems. The question of the peaceful uses of the sea-bed and ocean floor beyond the limits of national jurisdiction was a new field requiring a new international law based on the Declaration of Principles [General Assembly resolution 2749 (XXV)], particularly in respect of three basic notions: the common heritage; the exploitation of the area and its resources in the interests of mankind as a whole, taking into particular consideration the interests and needs of the developing countries; and the reservation of the area exclusively for peaceful purposes.

In resolution 2750 C (XXV), the General Assembly had instructed the Committee to prepare draft treaty articles on an international régime. In the view of Morocco, the régime should be so articulated and organized that it could meet the hopes of all. Its status, nature and organization should be exhaustively studied by Sub-Committee I. His delegation remained open to all suggestions and proposals on that subject provided they were prompted by the interests of the international community in general and those of the developing countries in particular.

Another problem requiring consideration on the basis of the report to be submitted by the Secretary-General was the question of the economic implications of the exploitation of the sea-bed area. Ways should be sought for protecting States from adverse economic consequences and price fluctuations attributable to the exploitation of particular minerals in the area, and also for ensuring the equitable sharing among States of the benefits of exploitation, taking into account the special needs of the economically handicapped countries.

His delegation was convinced that a viable international régime would promote international co-operation and help to consolidate the principles laid down in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, adopted by the General Assembly at the time of the twenty-fifth anniversary of the United Nations [resolution 2625 (XXV)].

By resolution 2750 C (XXV), the General Assembly had entrusted the Committee with other important matters, most of which had been dealt with in the 1958 Conventions, although some had not been settled satisfactorily. In view of developments since 1958 and scientific and technical advances, the Conventions on the Law of the Sea needed review and adjustment, if only to allow for the emergence of many new States in international life.

In its task of re-examination and adjustment, the Committee should be guided by two considerations: the need to protect the interests of all kinds of coastal States and the need to take into account those of the international community. Coastal States were entitled to safeguard their economic interests and to guarantee themselves complete security. In addition to the possession of their territorial waters, which should be broad enough to assure their sovereignty, they should enjoy rights in respect of their fundamental economic interest. Morocco, a country with a great seafaring tradition where fisheries products were an essential and vital resource for a large part of the population, associated itself with those who urged the establishment of an area adjacent to the territorial waters in which the coastal State would exercise preferential fishing rights and could ensure the protection and conservation of living resources.

Furthermore, Morocco endorsed the criticisms advanced against the notion of the continental shelf, as defined in the 1958 Convention. In his opinion, the criterion adopted at the time was based on an outmoded concept. The definition should be formulated in a way which would take into account the new realities of the situation, having regard also to the principle of the equitable sharing of benefits derived from the exploitation of sea-bed resources and to scientific progress in that sphere.

In addition, security had to be ensured in conformity with international law and the United Nations Charter, yet that legitimate concern should not overshadow the existence of another requirement, namely freedom of navigation, particularly through straits. In international law, however, freedom of navigation within the limits of national jurisdiction was recognized only in terms of the notion of peaceful passage, a well tried concept which had proved entirely satisfactory.

The Committee should also devote attention to the protection of the marine environment, particularly against pollution, and to scientific research on marine matters. In the light of the work of possible future conferences, rules should be drawn up with a view to preserving the living resources of the high seas and protecting coastal areas against any contamination or pollution likely to harm coastal States.

Mr. ROSSIDES (Cyprus) said he believed an accommodation to be possible between vital national interests in regard to the living resources of the sea. It was generally felt that something should be done to protect the interests of coastal States which traditionally fished in the high seas adjacent to their territorial sea, as well as those of coastal countries, particularly developing ones, which had long been fishing in more distant waters because of the scanty resources of their adjacent seas and for which fishing was a vital part of their economies.

Freedom of navigation should also be respected. It should apply to straits situated on main communication routes even when forming part of a State's territorial sea, but not to other straits.

On the question of priority, his delegation considered that agreement on the international régime should precede the precise definition of the limits of national jurisdiction, since the original and main purpose of the Committee had been the establishment of an international régime and machinery to administer the resources of the sea-bed for the benefit of the international community as a whole. It would be the first time that the international community acquired juridical personality and capacity to act for the economic benefit of mankind. The concept of collective international personality had to become a living reality through the creation of the appropriate régime and machinery, or at least through the adoption of a memorandum of agreement on the essential elements involved. Moreover, the attribution to the international régime and machinery of legal personality and authority, in particular in an economic connexion, would generate confidence in the régime and induce States to show greater flexibility in their claims for wider national jurisdiction, thereby facilitating agreement on the difficult issue of defining and delimiting the international area. As far as Cyprus was concerned, priority should undoubtedly be given to the question of the régime, but that must not mean that work on the delimitation of the international area was suspended until the régime was established. The discussion of the question of limits would in fact pave the way towards an agreement on the régime, but no recommendation should be made on the delimitation of the area until there was full agreement on the régime.

Sub-Committee I, however, would have to tackle with urgency the preparation of draft treaty articles on the international régime and machinery and the study of the possible economic benefits to the international community of the exploitation of the sea-bed, thus ensuring that the preparatory work for the conference on the law of the sea was expedited. In that connexion, far-reaching changes had occurred since 1958. From the technical aspect, the 1958 Conference had regulated the areas of national jurisdiction on the basis of a continental shelf extending to the 200-metre isobath or the limits of possible exploitation. At that time, exploitation beyond a depth of 200 metres was considered impossible. Today, technological advances suggested that almost the entire sea-bed area would become exploitable. Generally speaking, depth did not seem to provide an appropriate criterion for national jurisdiction over the continental shelf. Consideration should also be given to the unjust situation arising

from the disparities between areas of the world with extensive continental shelves and others with practically none. It would therefore be more appropriate to delimit areas of national jurisdiction in terms of distance from the coast, irrespective of the extent of the continental shelf and sea depth.

Regard must also be paid to the interests of newly independent countries, which had been unable to participate in the previous conferences.

Furthermore, whereas the 1958 Conference had dealt with matters of sovereignty and jurisdiction over the resources of the sea-bed, the 1973 conference would above all be concerned with the new and crucial question of the utilization by the world community of the resources of the sea-bed as the common heritage of mankind. The seas and oceans should now be made subject to principles of international law that were inspired by justice, and their riches should be equitably distributed among all States. The conference and its preparation would therefore have to be approached in a truly communal frame of mind, in keeping with the spirit and trends of the times.

A vital issue which the conference would have to tackle was the question of the protection of the living resources of the sea against the effects of intensive scientific fishing and the consequences of marine pollution. Pollution was world-wide and would therefore be a priority matter for the conference on the law of the sea. It would, of course, be dealt with by the 1972 Conference on the Human Environment, but the conference on the law of the sea would have specifically to consider the international legislation required to halt marine pollution. Sub-Committee III might co-ordinate its work on that subject with the activities of the working group set up by the Preparatory Committee for the Conference on the Human Environment.

Cyprus had established a twelve-mile limit to its territorial sea and had its own continental shelf. It looked forward to the establishment of an equitable and effective international régime able to ensure that it received its legitimate share of the benefits reserved for the international community. In that connexion, his delegation felt that the Committee should give thought to the question of objects of historic and archaeological significance found on the sea-bed, with a view to their proper preservation, preferably in the country to which they could be attributed historically.

As the Secretary-General had said in his message to the Committee (45th meeting), the world community's experiment in connexion with the seas might inspire new forms of political co-operation and remind people of the physical and biological interdependence of the planet, and of the choice which lay before mankind: to swim or to sink together. His delegation hoped that spirit would prevail in the Committee's deliberations.

The meeting rose at 6.20 p.m.

SUMMARY RECORD OF THE FIFTY-EIGHTH MEETING

Held on Wednesday, 24 March 1971, at 10.20 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (continued)

Mr. VOHRAH (Malaysia) said that one of the important questions before the Committee was what was known as the "limits" question. In common with its immediate neighbours, Malaysia sat astride an extensive continental shelf covered by shallow seas. So far, it had only just started making use of that physical attribute but it was anxious to intensify its activities in the exploration and exploitation of natural resources in that area for the benefit of its people.

In conformity with the 1958 Convention on the Continental Shelf, to which Malaysia was a party, his Government had delimited Malaysia's continental shelf in the Straits of Malacca and the South China Sea in agreement with the Government of Indonesia. Malaysia's national law with regard to the continental shelf had been enacted in accordance with the provisions of that Convention.

With regard to the breadth of the territorial sea, the 1969 Malaysian law on the subject stipulated a breadth of 12 nautical miles. Since Indonesia, Malaysia's immediate neighbour across the Straits of Malacca, also subscribed to a 12-mile territorial sea, the Governments of the two countries had entered into an agreement delimiting the boundary of their respective territorial seas in those straits, particularly in the region where the total width was less than 24 miles. Malaysia, of course, recognized the right of innocent passage for foreign ships through its territorial sea.

Since a large proportion of the people of Malaysia depended for their livelihood on fishing, both in the territorial sea and in the high seas, his country favoured not only the adoption of measures by coastal States for the conservation of the living resources of the high seas adjacent to their territorial sea, but also the conferment on the coastal States of special fishing rights in those adjacent seas.

Those questions all gave rise to one problem that of defining the limits. His delegation had listened with interest to the alternative criteria suggested during the present debate by the representative of the United States (51st meeting) and of Indonesia (55th meeting) respectively and would do its best in a spirit of compromise, to assist in trying to find a solution to the problem.

With regard to the question of an international régime, his delegation favoured a strong international machinery with a broad range of powers, including the power to minimize adverse economic effects caused by activities resulting from the exploitation of the resources of the sea-bed and the ocean floor beyond national jurisdiction. His delegation was very much preoccupied with the question of pollution of the marine environment. There were oil drills on the coast of Malaysia and the volume and size of the tankers going through the Straits of Malacca had increased considerably. Since those straits were virtually a closed sea, the catastrophic effects which an accident to a giant tanker could have in that area were easily imagined.

Mr. CASTAÑEDA (Mexico) said that the great value of the four Geneva Conventions of 1958 was often obscured by undue emphasis on the changes which had occurred since then and on the disagreements on the question of limits in 1958 and 1960. The 1958 Conventions constituted an almost complete code of the law of the sea and had brought order into the utilization and exploitation of an environment in which the interests of all nations clashed daily. They had given stable and precise form to many rules of customary international law which had been in existence for over three centuries, particularly with respect to the régime of the high seas and such aspects of the régime of the territorial sea as innocent passage. They also embodied new rules on such matters as the continental shelf and the conservation of the living resources of the high seas. They represented in fact the greatest success so far achieved by the international community in the codification of international law.

The four Conventions were, of course, neither perfect nor exhaustive. The Committee's task was to supplement but not to rewrite them. They had been adopted by an overwhelming majority of votes at a United Nations Conference with the participation of 86 States, among which the developing countries, like Mexico, had constituted the majority. There was no justification whatsoever for treating those Conventions as though they were an obsolete piece of nineteenth century legislation.

With regard to the various questions before the Committee, he could not but express surprise at the little emphasis which had been placed during the debate on the Declaration of Principles embodied in General Assembly resolution 2749 (XXV). The fifteen Principles it contained should constitute the very basis of the sea-bed régime. The adoption of the concept of the common heritage of mankind, which had been used officially for the first time by a body fully representative of the international community, was bound to have the most important consequences in the future. Because of the overwhelming support expressed for it the Declaration could be considered as a sort of informal agreement between the members of the international

community. It provided in his opinion a legal basis for considering thenceforth as illegal any unilateral act on the part of a State purporting to appropriate the resources of the sea-bed and the ocean floor, or to claim any form of sovereignty thereover. The legal principle which had thus been established represented a radical departure from the principle which had for centuries prevailed in international law with regard to the acquisition of title over unknown territories and islands, namely, that of occupation, which conferred sovereignty on the first occupant. For the first time, the international community had acted as such and had conferred a heritage upon itself.

His delegation favoured the establishment of an international body which would be empowered to carry out exploration and exploitation activities directly. It was fully aware that in the initial stages such direct activities were not possible and that the international organization would have to grant licences or concessions for exploitation, but the possibility of direct activities should be left open.

The United States draft convention[1/] had certain useful features but had the defect of adopting the 200-metre isobath as the limit of national jurisdiction. It had the further defect of proposing the establishment of an intermediate zone known as the "international trusteeship area", with a hybrid status which could easily become a source of friction and difficulties.

The international area began where national jurisdiction ended, and in that respect it was necessary to dispel a misunderstanding. It was a mistake to suggest that there was no rule in international law with regard to the outer limit of the continental shelf. In fact, article 1 of the 1958 Convention on the Continental Shelf clearly defined the continental shelf as extending "to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources".[2/] It was true that the rule did not lay down a limit in numerical terms and that it might be difficult at any given moment to determine the depth up to which exploitation of the natural resources was possible. But it was important to realize that the problem was one of evidence and not of the absence of a legal rule, as some had suggested. The 1958 Convention provided the elements for the determination of the outer limits of the continental shelf. For example, if an undersea oilwell could be drilled at a depth of 500 metres, the outer limit of the continental shelf would then be the 500-metre isobath.

1/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021), p.130, annex V.

2/ See United Nations, Treaty Series, vol. 499, p. 312.

The existing rule could give rise to certain doubts such as whether the exploitability criterion referred to technical or to economic considerations. There was one question, however, on which there could be no doubt, namely, that the reference was to objective exploitability, to the depth which permitted exploitation by the most advanced technological methods employed at the time. Such an objective criterion would apply equally to all States and would alone be consistent not only with the preparatory work of the 1958 Conventions but with the principle of sovereign equality proclaimed by the United Nations Charter. There could be no question of taking the criterion of exploitability as referring to the capabilities of the coastal State concerned. That would result in different limits for different States and would be tantamount to regarding technological capability as conferring legal title over territory, thereby infringing the principle of the sovereign equality of States.

There was considerable support for the idea that the 1958 Convention should be amended to lay down an outer limit for the continental shelf which was more precise and easier to apply. His delegation welcomed that idea, provided it did not in any way affect the rights at present enjoyed by the coastal States in accordance with international law in force. His delegation could not, for example, accept the 200-metre isobath as the outer limit on the pretext that it was precise, since it would conflict with the acquired rights of the coastal State under the 1958 Convention on the Continental Shelf. It would be possible for the coastal State to exercise those rights, under the international law in force, as soon as technological advances permitted the exploitation of the resources of the continental shelf at a greater depth than 200 metres. A number of suggestions had been put forward at the 1958 Conference on the Law of the Sea for a more precise outer limit, such as the 1,000-metres isobath. More recently, it had been suggested that the limit should be the edge of the continental slope, but that would involve the problem of the so-called "continental rise" created by accumulations of sediment sometimes so enormous as to blur the proposed boundary line. It had also been suggested, to cover the case of countries without a continental shelf, that the outer limit should be the edge of the continental slope or a distance of 200 nautical miles from the coast, whichever was furthest removed from land.

With regard to the breadth of the territorial sea, in 1969, Mexico had adopted a 12-mile limit; it felt that that was reasonable and was consistent with the interests of the international community. It did not, however, regard that limit as a fetish; it might be adequate for the purposes of the territorial sea but not necessarily for other purposes which might be served by different legal rules.

The coastal State exercised all the attributes of sovereignty over the territorial sea. Except for the right of innocent passage, it could lawfully curtail and even stop altogether the exercise therein of any of the freedoms of the sea. The fact that a State chose not to exercise those faculties in full was totally irrelevant from the legal point of view and did not affect its discretionary powers. In view of that situation it was legally unthinkable that the coastal State should have absolute discretion to define unilaterally the actual limits of its territorial sea. As had been so aptly pointed out by the International Court of Justice in its judgment of 18 December 1951, in the Fisheries Case between the United Kingdom and Norway, the delimitation of sea areas had two aspects, an internal one and an international one:

> "The delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal State as expressed in its municipal law. Although it is true that the act of delimitation is necessarily a unilateral act, because only the coastal State is competent to undertake it, the validity of the delimitation with regard to other States depends upon international law." 3/

Clearly, therefore, to have any legal validity in relation to other States, the limit laid down by the coastal State must remain within the bounds tolerated by international law.

It was in the light of those principles that the various claims in excess of 12 miles should be examined. The States making those claims numbered at present twenty-three and were situated in three different continents. Careful examination, however, revealed that in the majority of cases their claims did not amount to an extension of the territorial sea itself but rather to special jurisdiction in certain specific matters. To take two examples, Chile had a territorial sea of three miles and claimed an area of economic jurisdiction of 200 miles, while Canada had a 12-mile territorial sea but exercised jurisdiction for the specific purpose of pollution control over an area of a breadth of 100 miles. In most cases the claims related to zones for the conservation of fish stocks or to exclusive fishing rights. It was therefore inaccurate to suggest that there was a movement to extend the territorial sea beyond 12 miles.

In actual fact, only 11 countries in the world claimed a territorial sea in excess of 12 miles. At present between 90 and 100 States favoured 12 miles as the maximum breadth of the genuine territorial sea. He had arrived at that figure by

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3/ I.C.J. Reports 1951, p. 132.

adding to the number of countries which had established a 12-mile territorial sea, the total of over 50 States which at present had a narrower territorial sea but would undoubtedly extend it to 12 miles if that figure were officially endorsed.

He would therefore suggest that agreement should be reached on one basic conclusion: that the territorial sea was the territorial sea and nothing else. Such recognition of the territorial sea as a distinct concept would be a necessary first step towards the solution of their problems, but it should be accompanied by recognition that fishery zones, whether conservation or exclusive or preferential fishing areas, were of genuine importance to the coastal State and not just a phanton right. In 1958 the concept of exclusive or even preferential fishing areas for the benefit of the coastal State had been regarded as anathema, even though as early as 1955 the United Nations Conference on the Conservation of the Living Resources of the Sea (1955) had, by the narrow majority of 18 to 17, accepted the concept of the coastal State's "special interest" in the conservation of those resources[4/] in the high seas adjacent to its territorial sea. That concept, if it meant anything at all, implied some right of the coastal State to take action against overfishing off its coasts. But when the time came to translate that special interest into a right of unilateral action in the high seas for that specific purpose, the right had been subjected to such limitations and safeguards as to render it practically nugatory. As a consequence, the rights conferred upon the coastal State in that respect by the Convention of 1958 on Fishing and Conservation of the Living Resources of the High Seas were quite illusory.

The proof of the correctness of that conclusion was that, despite the numerous cases witnessed by coastal States of overfishing by foreign interests in waters adjacent to their coasts, no coastal State had invoked the provisions of the 1958 Convention authorizing unilateral action. What had happened instead was precisely what the major fishing powers had tried to avoid but had failed to avoid because of their lack of vision, that since no one had any faith in the 1958 provisions, claims to exclusive fishing areas extending to huge distances from the coast had mushroomed.

The novel concept of an exclusive or preferential fishing zone for the benefit of the coastal State had been strengthened by the practice of the past ten years. The charge had been made, however, that that new concept conflicted with the principle of the freedom of the seas. But there was nothing sacrosanct about that principle. Moreover,

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4/ See Report of the International Technical Conference on the Conservation of the Living Resources of the Sea, Rome, 18 April to 10 May 1955 (United Nations publication, Sales No.: 1955.II.B.2), para. 45.

when freedom of the seas took the form of indiscriminate exploitation of fish stocks, it led to a disastrous waste of both capital and human resources. That point had been brought out by the well-known United States writer Francis Christy in a recent work in which he had given as an example the case of the rich George Bank fishing area off the coast of Newfoundland, where it had been estimated that in order to obtain the optimum catch, the number of fishing vessels in the area should be reduced by 50 per cent. In the many cases in which a particular fish stock had been threatened with total depletion, its extinction had been prevented by the introduction of specific controls such as limitations on the size of fishing vessels. Such measures simply meant an even greater waste of capital and labour. Instead of inefficient competition by a large number of producers, what was needed was international control of the number of producers competing for the same fish stocks.

The revealing case of Peru, which in ten years had become the world's leading producer of fish, showed how effective the concept could be of a reserved fishing zone for the coastal State. Of course, conditions varied ad infinitum. In some cases, preferential rights would be more appropriate than exclusive rights, while in others the proper solution would be the adoption of conservation measures.

With regard to the criteria to be applied in defining the limits of such special jurisdictions, his delegation thought that, generally speaking, the proportion of fish resources adjacent to the coastal State to be reserved for the coastal State should be commensurate with its catching capacity, which, in the case of the developing countries, was bound to increase. Two extreme positions were equally inadmissible. The first was that a country should claim to close arbitrarily some portion of the high seas outside its jurisdiction. The living resources of the sea, if left totally unexploited, would then be lost to the international community. The second was that a coastal State should be denied the right to reserve for its nationals stocks of fish and other natural resources when it was in a position to exploit them efficiently. The Committee would have to find a formula somewhere between those two extremes.

In consultations between governments during 1970, various suggestions had been made for preferential zones. The formula proposed jointly by the United States of America and the USSR[5/] was unsatisfactory to his delegation, although it had the merit of recognizing the need to establish a special régime in parts of the high seas. It had, however, the defect of limiting the rights of the coastal State to the catch which could be obtained with small fishing craft. That approach was contrary to the whole

5/ A/8059, annex C, document CCD/269/Rev.2

philosophy of development and to the very basis of UNCTAD. To accept it would mean obliging the developing States to resign themselves to perpetual underdevelopment in respect of fisheries. Another defect was the suggestion that the "traditional" catch of other States in the fishing zones situated off the coastal State should be respected. Acceptance of that suggestion would imply a limitation on the development of its fisheries by the coastal State.

With regard to straits, it was clear that acceptance of a 12-mile limit for the territorial sea would have the effect of including in the territorial sea of one or more coastal States many straits which were at present open to navigation. His delegation supported the idea of an international treaty to guarantee freedom of navigation through such straits. In the informal consultations held in 1970, the idea had been put forward of establishing a sort of corridor which would have the same status as the high seas and would cross the territorial seas which constituted the straits. His delegation could accept that formula provided the special régime of the corridor in question applied only to navigation and overflight and not to fisheries.

The problem of pollution had given rise to a new legal question of enormous importance and the existing rules of international law were totally inadequate to solve it.

It was only since the Second World War that a number of rules relating to the transport of oil by sea had been adopted, but they were few and bound only a small number of States. At the same time, new problems had arisen. Accidents to giant oil tankers could affect not only marine fauna and flora but also tourist amenities, which even greater hazards had been created by the development of nuclear-powered vessels. The possible consequences of the dumping at sea of radioactive waste were as yet unknown. The worst problem was that of pollution through the disposal of industrial waste. Seas like the Caspian and the Mediterranean, large lakes like Lake Erie and rivers like the Rhine were rapidly becoming unfit to sustain life.

The international community could not remain inactive in the face of such developments and the Committee must help to promote the establishment of a new legal régime to deal with the problem. That régime, which would have to be endorsed by the forthcoming Conference on the Law of the Sea, should include three basic rules. The first would state the essential duty of States to refrain from polluting the marine environment to the detriment of other States and of the international community. The second would provide for the international responsibility of a State for damage caused to other States or to the international community by pollution of the sea; such

responsibility should be objective, in other words, based not on the concept of fault but on the hazards created by the use of certain means which were in themselves dangerous. The third was that the international community, represented either by the organization to be created for the sea-bed or by the United Nations itself, was legally entitled to hold responsible a State which caused damage to the property of the international community.

Mr. BEESLEY (Canada) said that he proposed to outline Canada's position on the substantive issues before the Committee, but without attempting to suggest substantive solutions.

In the first place, there was no cause for complacency over the progress achieved at the present session. In spite of the intensive negotiations in February in New York, procedural problems had necessitated a further two weeks of negotiations before the Committee had been able to hold its first formal meeting in Geneva, while the Sub-Committees had barely begun their substantive work. There seemed to be little or no hope of meeting the 1973 or any other deadline without radical changes in the Committee's methods of work and in its basic approach to some of the key issues.

The General Assembly at its twenty-fifth session had taken three major steps towards the objectives fixed by the international community almost four years earlier. First, it had endorsed and recommended for signature an arms control treaty prohibiting the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed not only beyond but also within the limits of national jurisdiction, as Canada and other countries had urged from the outset. Secondly, it had adopted resolution 2749 (XXV) incorporating a declaration of principles governing the sea-bed and ocean floor and the sub-soil thereof beyond the limits of national jurisdiction. Thirdly, it had adopted resolution 2750 C (XXV), calling for an international conference on the law of the sea to be convened in 1973 and instructing the Committee inter alia to draft treaty articles embodying an international sea-bed régime and machinery on the basis of the declaration of principles contained in resolution 2749 (XXV). Those decisions were events of the greatest importance. The difficult problem of the mandate, size and composition of the preparatory committee for the conference had also been resolved and progress had been made towards agreement on procedures; and although at first sight the Committee's size might seem a handicap, with efficient working methods it might in the long run prove its greatest strength, since it gave an assurance that solutions acceptable to the Committee were likely to be acceptable to the United Nations as a whole.

The Canadian delegation had already explained its position in the predecessor Committee and particularly in the two most recent statements by Canadian representatives in the First Committee at the twenty-fifth session of the General Assembly, on 1 December and 4 December 1970.[6/] The issues concerning the sea-bed régime, which arose out of the Committee's mandate, comprised some of the most novel and challenging problems now facing the international community. Everyone was aware of the basic issue, which was the requirement to develop a régime which would prove equitable to both developing and developed States. As the representative of a country which was developed in that it had already acquired practical experience and expertise in offshore resource management, and developing in that it lacked the vast resources required to develop its own offshore resources, he did not see the problem as insurmountable or even as the most difficult part of the Committee's mandate.

A priority task for the Committee, and one which too few delegations had mentioned, was the detailed elaboration of operating regulations which were essential to any effective resource management system. Many delegations had stressed the need to establish a sound and workable basis for equitable sharing of benefits and to ensure that the Committee's work would help to lessen the gap between developed and developing countries. But there would be no benefits for many years to come, if ever, unless the Committee faced squarely the difficult and highly technical issues raised by the need to develop an offshore resource management system which achieved the right balance between the need to control every operation and the sometimes competing need to encourage development and exploitation.

Canada had learned the hard way about the problems of coping with huge foreign-based multi-national or State-owned corporations. Its modern oil industry had begun with the Leduc discovery in Western Canada in 1947. Before that, although Oil Springs, in Eastern Canada, had been the first commercial oil discovery in North America, almost a century earlier, oil and gas production had been minimal. As a result, Canada had had little expertise in oil and gas exploration and exploitation or in resource management and conservation; it had had to look elsewhere for capital for oil and gas development and to rely heavily on foreign personnel and on training outside Canada for its own nationals. It was through active engagement in the oil and gas field - both in exploration and exploitation and in resource management and conservation - that Canada now possessed offshore managerial and technical competence. It knew from experience that the best way for a country to build up such expertise and competence was by managing its own areas of immediate interest. Canadian managers, scientists

6/ See A/C.1/PV.1779 and A/C.1/PV.1784.

and technicians were now working in offshore oil and gas fields all over the world, from the Bass Strait off Australia, to California and the North Sea.

Canada was not a major economic power. It lacked the large investment capital needed to develop offshore mineral resources and had no major Canadian oil companies to explore and exploit the mineral resources of its continental shelf; it had to contract with foreign corporations whose subsidiaries in Canada, although acting in good faith under Canadian law, had foreign-based headquarters. It was important for Canada to maintain a clear dividing line between those powerful foreign entities and its Government authorities who managed the agreements under which they operated along Canadian coasts, and who exercised controls over their activities in that vulnerable multi-resource environment. It was imperative to ensure that equally effective controls were built into the resource management system for the sea-bed beyond national jurisdiction.

The Canadian approach to the sea-bed issues was that of a non-nuclear medium power with extensive coastlines and a deeply glaciated continental shelf but no maritime fleet, with offshore managerial and technical competence but inadequate risk capital. No one group of States reflected all of Canada's interests but each group reflected some aspects of them. While that might seem a disadvantage, it was in fact helpful in understanding the positions of other delegations.

The problem of the breadth of the territorial sea and the related question of international straits, although considered important enough to warrant special reference in General Assembly resolution 2750 C (XXV), did not appear equally compelling to all the members of the Committee. But merely to state the issue - the need to strike a balance between the legitimate necessity for coastal States to exercise sovereignty over a belt of waters adjacent to their coastlines and the competing needs of all States for passage - was sufficient to make clear its close relationship with the problems of fisheries jurisdiction, pollution control and preservation of the marine environment for the better conservation of the living resources of the sea. Even scientific research could be affected by the approach taken to that problem. The Canadian position did not fit into any particular group approach. Canada had established its own territorial sea unilaterally at a breadth of 12 miles. As well as being a coastal State concerned about the protection of its own environment, Canada depended on international trade which in turn depended on free, certain and uninterrupted sea passage. Canada therefore appreciated the need to ensure that the rights of shipping States were not asserted to the disadvantage of the coastal States and that the rights of coastal States were not over-protected to the point of interfering with free trade.

The traditional concept of "innocent passage" needed clarifying and perhaps even redefining. What his delegation had in mind was not a new formulation which would impose undue restrictions on seafarers, since they continued to regard as an absolute necessity the faculty for all nations to use the seven seas for communication and trade, but that the notion of "innocence" should be modernized. Agreement or failure to agree on that issue could make or break the conference.

With regard to the question of fishing and conservation of the living resources of the high seas, including preferential rights of coastal States, Canada was one of the countries which had stressed the importance of that item in the agenda of the proposed conference on the law of the sea. Failure to settle that question might jeopardize the settlement of other related issues. Canada had, he believed, been the first State to submit a proposal for a contiguous fishing zone adjacent to a coastal State's territorial sea, a proposal which had come close to acceptance at the 1958 and 1960 conferences on the law of the sea. The basic element in that proposal was still valid, namely, the separation from the collection of jurisdiction, comprising sovereignty, which were subsumed in the concept of the territorial sea, of particular jurisdictions such as exclusive fisheries control and conservation.

The dimensions of the problem of fisheries conservation had however changed so radically since 1960 that new approaches might be needed to resolve it. As the Canadian delegation had pointed out in the First Committee of the General Assembly at its twenty-fifth session,[7/] a rational system of fisheries conservation management and exploitation was required in the common interests of all concerned. Canada, as a coastal and not a distant-water fishing State, was particularly conscious of the rapidly growing threat to the continued existence of the sea's living resources caused by the rapid depletion of those resources. Without effective multilateral action States would be forced to meet international inaction by national action, as Canada and others had already been obliged to do. When it was considered that even in developed countries there were fishing communities which depended for their livelihood on the living resources of the sea adjacent to their coasts, and when it was considered on the one hand the importance of ensuring a share of the total living resources of the sea for developing countries which had not yet achieved an effective fisheries capacity, and on the other hand the continuing investment in huge fishing fleets accompanied by the most modern and efficient factory ships, it became obvious that there was no alternative

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7/ See A/C.1/PV.1784

to an early attack by the Committee on that crucial problem. Restraint must be exercised by the major distant-water fishing nations in devising a solution to the problem, while coastal States must accept the fact that there was a limit to the distance to which they could extend exclusive fisheries jurisdiction; both groups must begin to work out together a system of high seas living resources management and exploitation.

He appreciated the complexity of the problem but had doubts about some of the highly complex remedies that had been proposed. From the point of view of a coastal State, any solution entailing long discussions by fishery scientists would not be a satisfactory solution to the immediate problems of a Government concerned to protect the livelihood of its fishermen. Even if the fishery scientists managed to reach agreement on scientific assessments, their recommendations might not be accepted by the administrators representing their Governments on any regulatory body that might be set up, and the Governments themselves might not accept the recommendations of their administrators because of political pressure. Any proposal for the solution of fisheries problems must be realistic in according the coastal State some degree of control in the conservation of the living resources of the sea lying off its coasts and the Canadian delegation hoped to make a concrete proposal on the subject at a future meeting of the Committee.

The Canadian Delegation was seriously concerned about the threat of marine pollution and the urgent need to protect the marine environment from further degradation. There seemed to be general recognition of the need to co-ordinate the various international studies being undertaken in that field, particularly those related to the 1972 Stockholm Conference on the Human Environment, the 1973 IMCO Conference on Marine Pollution and the Law of the Sea Conference scheduled for 1973, but at the same time there seemed to be a lack of awareness by the international community of the intimate relationship between the problem of marine pollution and a number of the crucial outstanding issues on law of the sea.

It was precisely in connexion with the prevention and control of marine pollution that the most direct conflict could arise between coastal and maritime interests. Freedom of peaceful navigation was the overriding interest in the uses of the sea shared by all States, for it was essential to the network of commerce and communications which was the lifeblood of the countries of the world. That freedom should not, however, be exercised irresponsibly so that it threatened the very existence of the marine environment. An effective regime for the prevention and control of marine pollution

would have to be devised, which would lay down internationally agreed restrictions on the maritime transport of pollutants and provide preventative protection for the interests of the international community as a whole and the coastal States in particular. Because the coastal States suffered the most drastic effects of marine pollution damage, future conventional law would have to recognize their fundamental right to protect themselves against that threat to their environment.

The issue of freedom of passage underlay all of the other issues of the law of the sea. The extension of fisheries jurisdiction by the coastal State normally affected only the fishing vessels of relatively few States. Even the exercise of control measures for traditional security purposes normally affected only the naval vessels of certain foreign States. Protection of the environment of the coastal State, however, might have serious implications for the activities of all classes of vessels of all nations, in the territorial sea, in exclusive fishing zones, through international straits, and on the high seas proper. It was for that reason that the Canadian delegation wished to emphasize the importance of the question, not only in environmental, but also in legal, political and economic terms.

The problem of marine pollution was a problem of the law of the sea and a comprehensive approach would have to be adopted to it at the 1973 Law of the Sea Conference: it could not be left to the Stockholm and IMCO Conference alone. The Law of the Sea Conference would provide the only law-making forum in which the international community could undertake the required development of basic principles of international law to bring them into line with present-day needs and conditions. The body of conventional law produced under the auspices of IMCO had understandably been concerned with the protection of shipping interests on the basis of traditional principles of international law; the protection of coastal interests had not been a prime preoccupation. For instance, the 1969 IMCO Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties empowered contracting parties to sink a vessel of another contracting party after an accident had occurred, when the results of that accident posed a threat of pollution, but did not empower the coastal State to regulate the passage of such potentially dangerous ships before an accident occurred. Similarly, while the interests of the flag State were protected even when its vessels were operating within a few miles of the shores of a coastal State whose own interests might be threatened by those operations, the flag State assumed no responsibility for the damage its vessels might cause to the environment of that coastal State. IMCO law was based on flag State jurisdiction but did not extend to the necessary consequences

of that jurisdiction. Those were some of the anomalies which should be examined and corrected, and that could be done only at a wide-ranging law of the sea conference where the interests of all States were fully represented. What Canada envisaged was the elaboration of a system of internationally agreed pollution prevention regulations, with enforcement largely in the hands of the coastal State, but with the least possible interference to passage. The regulations might, for example, require ships to carry international pollution prevention certificates in order to qualify for "innocent passage".

The importance of the workload assigned to Sub-Committee III had been somewhat underestimated in another aspect. The great expansion of scientific research in the marine environment in recent years had given rise to growing difficulties in the conduct of scientific investigations on the high seas. While all countries appeared to agree on the objective value of marine scientific research, there had been increasing controversy over the recognition of the coastal State's interests. The Continental Shelf Convention, for instance, provided that the consent of the coastal State was required for research on the continental shelf and undertaken there. Some countries wished to broaden or clarify the requirement for the protection of the coastal State's interests, but others sought to ensure the maximum freedom of marine scientific research with the minimum interference from any source. A reasonable accommodation would have to be found between conflicting interests.

On the question of priorities, the Canadian delegation agreed that it was important to maintain priority for the sea-bed regime and was confident that that would not interfere with the start of work on other important matters. Substantive work should not be held up by any differences of views on priorities. The main concern of everyone was to develop a concerted approach to all the many closely related problems on the agenda and to avoid attempting an independent settlement of any question which was closely linked with other issues.

With the adoption of the Declaration of Principles it was necessary to face the selfsame problem that had delayed the process of reaching agreement on the Declaration and which now threatened to block progress on the development of the regime and machinery. That problem was the precise definition of the limits of national jurisdiction beyond which the principles would be applied. Several delegations, in particular those of Austria and Australia (52nd meeting), had spoken of the need to devise some solution that struck a balance between the interests of coastal States and those of other members of the international community. There was a complex relationship

between the definition of the limits of national jurisdiction and the nature of the regime to be developed for the area beyond. Until the question of limits had been settled, States would be uncertain about the sort of guidelines they wished to lay down for the area beyond national jurisdiction; and until the question of the regime had been settled, States would be uncertain about the precise limits they wished to fix for the area within national jurisdiction. It was unlikely that any final settlement on regime, machinery or limits could be reached until they were taken up together at the 1973 conference.

Nevertheless, the adoption of the Declaration of Principles had brought about a significant change in the situation prevailing prior to the twenty-fifth session of the General Assembly, when the existence of an area of the sea-bed beyond national jurisdiction and the development of legal principles for that area had been essentially theoretical considerations. Now that the international community had sketched out the broad legal principles applicable to the area beyond national jurisdiction, discussion of that area had taken on a new dimension and would proceed in a new context. While the precise limits of the area must await the outcome of the 1973 conference, the existence of the area in fact and not only in principle should be clearly established. Further progress might be difficult without some immediate step to give to the concept of the sea-bed beyond national jurisdiction the same measure of reality as had been given to the international regime with the adoption of the declaration of principles. A useful step would be to ascertain at least the minimum undisputed area of the sea-bed beyond the limits of national jurisdiction, without awaiting the results of the law of the sea conference. There was moreover, an immediate need to establish a first-stage machinery for the area so determined, in order to break the procedural deadlock which had bedevilled every step forward achieved or attempted, and which at the present session had produced the unhappy spectacle of a Committee of the United Nations which for two weeks had been unable even to agree to meet or to begin to discharge a mandate of truly historic importance.

What the Canadian delegation had in mind, first of all, was the possibility of a new form of moratorium resolution calling on all States to define their continental shelf claims within a specified time limit, on the clear understanding that those claims would not prejudge the future development of the law on the precise definition of the area of the sea-bed beyond national jurisdiction. Alternatively, the resolution might specify that as from a specified date already past, national claims would be deemed to have been fixed. Either way, the effect would be to define the non-contentious area of the sea-bed beyond national jurisdiction, leaving the precise

limits to be negotiated later. States unwilling to advance clear national claims might instead specify the outside limits beyond which they would make no claims. Thus, while the limits of the area beyond national jurisdiction might be expanded in the later negotiations, they could not be narrowed since States would be estopped, in practice if not in law, from claiming a greater area than that included in the claims they had advanced as from the specified date.

That procedure would guarantee the reservation of a large percentage of the sea-bed for the benefit of mankind and would constitute the first true moratorium on national claims to the sea-bed. Previous attempts to impose such a moratorium had not succeeded because they had retained the very elasticity on limits which they sought to remove, since they had called on States not to carry out exploitation activities in the area beyond national jurisdiction without giving them any guidance as to the extent of the area. Whereas until now the limits of national jurisdiction had been treated as an abstract question, definition of the non-contentious area beyond national jurisdiction would change uncertainty into certainty and turn a hypothesis into a reality. The way would then be clear for early progress in developing the international sea-bed regime and setting up international machinery.

It might, of course, be objected that such a step would encourage extreme national claims, and that the minimum non-contentious area of the sea-bed provisionally defined as being beyond national jurisdiction might tend to become the maximum. He believed, however, that national claims would be fixed on other grounds, and that the imposition of a true moratorium at the present time would have a beneficial rather than a harmful effect. No State had yet claimed sea-bed limits greater than 200 miles or the outer edge of the continental margin, and it was unlikely that any State would attempt to go further than either of those limits, even for the provisional purposes of a moratorium. He was not suggesting that coastal States should define the maximum limits they now claimed, but rather that they should define the maximum limits beyond which they would not claim under any circumstances: they could waive any possible rights they might have beyond a certain limit, without necessarily claiming the whole of the area within that limit. Either way, the international community would be made aware of the general position of each of its members on the issue of limits.

Definition of the non-contentious area of the sea-bed beyond national jurisdiction would not only facilitate early progress in setting up international machinery, but would also make it possible to proceed simultaneously to the creation of a first-stage machinery for the non-contentious area. The function of such a machinery could be:

to register national continental shelf claims, to license exploration and exploitation activities in the non-contentious area, and possibly to maintain a record of offshore exploration and exploitation activities authorized by coastal States within the continental shelf areas claimed by them. The creation of such a first-stage machinery would give an impetus to the development of effective controls over the already defined non-contentious international area of the sea-bed and encourage exploitation and development by ensuring certainty of title.

The Canadian delegation had already suggested, in the original Committee and in the First Committee of the General Assembly at its twenty-fifth session,[8/] that there might be practical advantages in devising a system of machinery which would have all the essential elements provided for from the outset but which would begin with a skeletal structure. The only element lacking for the creation of an interim machinery was the definition of the minimum area over which that machinery would have authority, which was precisely the element to which he wished to invite consideration. The need for international machinery was becoming urgent. Technology had progressed to the stage where some forms of commercial exploitation of the deep ocean floor were now feasible. Deepsea Ventures Incorporated, a United States-German consortium, had announced the successful commercial recovery of manganese nodules from the Pacific sea-bed off the Hawaiian Islands; it had invested millions of dollars in the undertaking and planned to start full-scale deepsea mining operation in the near future. Could the company be expected to await the outcome of the 1973 Law of the Sea Conference before going ahead with its plans? What would be the implications for the future development of the international sea-bed régime and machinery if such operations were started in the absence of any international authorization and control?

The two-step procedure he had outlined for consideration was self-contained and could be examined on its merits. It would help to resolve urgent procedural problems, to facilitate preparations for the 1973 conference, and to ensure the conference's success. It would be in keeping with the approach which had so often in the past enabled even the most difficult bilateral or multilateral negotiations to succeed - namely, first to seek out and define the areas of common ground between the parties, and then to consider ways and means of resolving the remaining differences. At the present stage his delegation was merely submitting ideas for consideration, rather than firm proposals.

8/ See A/C.1/PV.1779.

A third step would be to appeal to all coastal States to start paying to the interim international machinery a fixed percentage of all their revenues from the sea-bed areas they claimed beyond the outer limit of their territorial waters. One per cent of such revenues, for example, could produce millions of dollars a month for the benefit of the international community and of the developing countries in particular. Such a contribution would be a kind of voluntary international development tax to be paid pending the adoption of a multilateral treaty on the limits of national jurisdiction and the creation of an international régime for the sea-bed beyond national jurisdiction. The Government of Canada would be prepared to take such a step.

That third step would not prejudge the development of international law, but would constitute an earnest of good faith on all sides, and would go a long way towards meeting the essential requirement which should provide the basis for any sea-bed régime, namely, the principle of equity. That principle should apply not only to the sharing of benefits from the sea-bed beyond national jurisdiction, but also to the contributions to be made towards building up those benefits. The third step would meet that requirement because it would provide an opportunity for all coastal States to contribute to the benefit of mankind as a whole.

The Canadian delegation would welcome the reactions of other delegations to the ideas he had outlined. In the light of those reactions it would be prepared, if such a step appeared useful, to submit its ideas in the form of a proposal and ultimately as a draft resolution, supported by a working paper, on the first-stage international machinery.

Mr. RIPHAGEN (Netherlands) said that as early as February 1968 his Government had submitted to the Secretary-General of the United Nations its "tentative observations" on the régime to be adopted for the sea-bed and ocean floor.[9/] Those observations had included an "outline of an international system of control over the economic exploitation of the sea-bed and ocean floor", which at that time had been the most detailed blueprint submitted by any Government. Although it would not now insist on all the details contained in its 1968 proposal, his Government still felt that the basic approach followed in it was the right one and the only one capable of ensuring that, in the completely different conditions of the modern world, the seas would become in reality what Grotius had once said they should be: the common property of mankind.

9/ See A/AC.135/1, pp.22-25.

That basic approach could perhaps best be explained by contrasting it with the traditional way in which the problems of man's activities in relation to the seas had been dealt with by international law. In the latter process, the sovereign right of every State to make use of the seas through activities conducted under its flag was recognized on a basis of formal equality. On the other hand, on the basis of the same concept of the sovereignty of each individual State, sovereign rights were recognized as belonging to a State in respect of areas adjacent to its coast. It was expected that any possible conflicts between a flag State and a coastal State would be solved by giving priority to one or the other according to which side of an imaginary line it was that the acts had taken place, in other words, according to a territorial criterion.

The drawbacks of such a system were obvious. Not every State was in a position to undertake activities under its flag on the seas, and among those which were, in such a position, the potentialities differed widely. Not every State had a coastline and among those which did, there was a wide variety in length, configuration and in the mass of seas and sea-bed adjacent to it. Moreover, the formal equality of States was not reflected in equality of opportunity, so that it was becoming increasingly necessary to follow a more functional approach and to organize, on the international plane, the uses of the seas in such a way as to give reality to the concept of the "common property of mankind".

The necessity of a drastic change in approach was underlined by the increasing awareness of the need to take positive measures in order to bridge the gap between rich and poor countries. Indeed, his Government's 1968 proposal had mentioned as two of its main purposes "(a) aid to developing countries" and "(b) ensuring reasonable exploitation, both to avoid the area being left undeveloped, and to prevent distortion of the market by over-production". The functional organization of the uses of the seas called for the establishment of an international institution or machinery which would have effective powers of decision and act in accordance with detailed rules. It did not imply that all decision relating to the uses of the seas would be taken on the international level, since that would be tantamount to creating a sort of centralized super-State having the seas as its territory. On the contrary, in the system proposed by his Government individual States would still exercise rights of use and of jurisdiction in relation to the seas. Those rights would not, however, be extensions

of national sovereignty but rather functional rights to be exercised on the basis and within the framework of international rules and procedures to be established. Those international rules and procedures would constitute the translation into legal terms of the concept of the seas as the common property of mankind.

With regard to the question to what extent such a new international system should be applied, the functional approach required that it should be applied only to the extent necessary to fulfil its purpose, and that its introduction should not encroach on matters which had found a satisfactory solution under the existing rules of international law. In those circumstances, it was the considered opinion of his government that the question of the military uses of the seas, and in particular of the sea-bed and ocean floor, should be left to the United Nations agencies concerned with arms control and disarmament.

With regard to the navigational use of the seas as a highway of international commerce, generally speaking the existing rules of international law seemed to be adequate. There were, however, certain problems connected with navigation which needed to be further examined, such as the problem created by geography. In order to be meaningful, the right to the navigational use of the seas should obviously include the right to use the channels of navigation customarily employed by ships in transit. In some parts of the world, however, those channels or sea-lanes were close to the coastline, as in the case of straits, and the exercise of the right to navigational use might then conflict with the non-navigational uses of the coastal State. Some of the resulting problems were regulated by the existing rules of international law, as, for example, in the 1958 Convention on the Continental Shelf, but there still remained the problem of the territorial sea established by the coastal State as a protective belt for purposes of its own security. The question arose whether such use of the seas might result in unjustifiable interference with navigation in transit, particularly with the right of innocent passage. It would now seem necessary to explore the possibilities of a more adequately formulated group of rules accommodating the interests of navigation - both by sea and air - and security.

Another problem connected with the navigational use of the seas was created by technology rather than geography: it was the problem of pollution. He was not referring to the deliberate pollution of the sea by its use as an outlet for waste but rather to cases of accidental pollution as the result of an incident of navigation. It was obvious that measures to forestall pollution damage by action against the ship involved in an incident, and measures to prevent ships from entering certain areas of the sea on the ground that they represented a potential cause of pollution, directly affected the navigational use of the seas. For the first type of measure, an international convention had recently been adopted which, in certain circumstances, allowed such action and at the same time provided for safeguards against abuse. The second type of measure - that of preventing ships from entering specific sea areas - was clearly encroaching even more on the navigational use of the seas. It should obviously be brought under international regulation and control in order to accommodate the interests involved and to bring about some uniformity in the standards to be applied. It might be asked whether the system of extending the sovereign rights of the individual State over a sea area adjacent to its coast up to a specific distance could provide an adequate solution for the problem. The functional approach, according to which, within the framework of an international set of rules and procedures, the States most concerned in the different uses of any sea area would be empowered to take the necessary measures, might provide more satisfactory results.

Among the non-navigational uses of the seas, exploration and exploitation of the mineral resources of the sea-bed and subsoil had taken pride of place in international discussions. It was particularly in that field that the drawbacks of the traditional approach of extending the sovereign rights of individual States over sea areas or resources were acutely felt. The glaring inequality of opportunity for States, whether resulting from the different stages of their technological development or from their different geographical positions, demanded the rejection, as the sole basis for the acquisition of those resources, of the criteria of the national flag under which activities were carried out and of the adjacency of the area of activities to a national coast. Furthermore the type and amount of the products which were expected to arrive on world markets from the exploitation of the sea-bed and subsoil might require international control with respect to their production and marketing. Finally, the profits which, through different forms of

royalties and taxation, accrued to a State from the exploitation of the resources should not benefit that State alone but should in principle be set aside for the promotion of economic development of the under-developed countries and regions of the world.

All those considerations militated in favour of an international régime under which individual States' rights were functionally limited and controlled. Under the international system proposed by his Government in 1968, States would not acquire sovereign rights over a given part of the sea-bed and subsoil, but rather would be entrusted with the administration of the exploitation activities in that area, within the framework of the international rules and procedures of supervision. In that case, the allocation of an area to a particular State would perhaps present fewer political difficulties. Since, furthermore, the economic benefits of such exploitation would, under the international system, largely accrue to the collectivity of States, the question of allocation could, in principle, be solved in accordance with the functional character of the whole system.

It was evident that an international system as outlined above differed fundamentally from the system embodied in the 1958 Convention on the Continental Shelf. That raised the delicate question of the line of demarcation to be drawn between the fields of application of the two systems. In principle, his Government was in favour of the largest possible field of application of that international system. If that result could be achieved only by providing for some special position of the coastal State within the international system, which would not prejudice its object and purpose, such a position could be envisaged. The important thing was that the exploitation of the largest possible part of the sea-bed and subsoil should be carried out on behalf of the collectivity of States and for the benefit of the promotion of balanced economic development throughout the world.

On the question of the living resources of the seas, he said that the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas had provided for some sort of international machinery to enact the necessary conservation measures. Those measures limited the allowable catch, in terms of fishing grounds and stocks of fish, and therefore necessarily raised the question of who was to be allowed to catch fish within those limits. The answer given in the Convention

was that the measures should not be "discriminatory in form or in fact", between fishermen according to their nationality. However, the 1958 Conference had recommended that conservation measures adopted by agreement between the States concerned should recognize any preferential requirements of a coastal State resulting from dependence upon the fishery concerned.

But surely the notion of preferential requirements involved a distinction according to the nationality of the fishermen wishing to exploit particular fishing grounds for particular stocks of fish, and the distinction between States which were and States which were not dependent upon the fishery concerned was clearly a relevant one. Once the idea of a preferential position in case of necessity to limit the allowable catch was accepted, several distinctions acquired significance; here was the distinction between traditional fishing activities in respect of a particular fishing ground and stock of fish, and the fishing activities of "newcomers"; the distinction between fishing activities conducted near the shore, and distant fisheries; the distinction between the application of old techniques and new techniques, and the distinction between States at an earlier stage of development and States having a fuller development and diversified economy. Although those distinctions often coincided with the distinction between States dependent upon, and States not dependent upon, the fishery concerned, that was certainly not always the case. Furthermore, the States concerned with fishing activities in a particular sea area might very well be on the same side of the dividing line drawn by the distinction. All that made the equitable allocation of living resources between the States concerned a difficult problem, and its solution clearly required an effective international machinery. His delegation was in favour of exploring the possibilities of supplementing the present substantive rules and of strengthening the existing machinery in order to arrive at international measures of conservation which duly recognized the preferential requirements both of States which were dependent upon fisheries and of States which, owing to their social and economic structure and the stage of their development, were in need of protective measures for their fishing activities.

There was an urgent need for a new approach to the international law of the sea. It was his delegation's firm conviction that the present trend towards the unilateral extension of exclusive sovereign rights of individual States over larger and larger sea areas and resources must be reversed and replaced by an international system of collective management, adjustment and allocation, designed to alleviate at least some of the inequalities which history and geography had created among States.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE FIFTY-NINTH MEETING

Held on Wednesday, 24 March 1971, at 3.30 p.m.

Chairman: Mr. AMERASINGHE (Ceylon)

GENERAL STATEMENTS (concluded)

Mr. ESPINOSA (Colombia) said that indisputable progress had been made in connexion with the law of the sea. His own country had supported many of the principles proclaimed at the 1958 Conference, especially those concerning the special interest that coastal States had in the areas of the high seas adjacent to their coast, in the continental shelf and in the contiguous zone, which were now subject to international law; the adoption of general rules on arbitration; and the new international policy on fishing.

The practical application of the four 1958 Conventions had brought to light their faults, gaps and imprecisions. His delegation nevertheless recognized their many merits and believed it would be a serious mistake to wipe the slate clean and start again from the beginning. But they should not be considered as sacrosanct either. The law should control and guide events rather than lag behind them, and one of the principal responsibilities of international bodies was to supervise the law.

Everyone was aware of the reasons for the failure of the Conference of The Hague (1930) and of the Geneva Conferences of 1958 and 1960. International relations, like personal relations, had their delicate aspects, which should not be disregarded if another failure was to be avoided; that would be catastrophic in view of the urgent needs of mankind and the rate at which technology was evolving. Obviously, the various zones had to be defined precisely, but tact and caution were required, to the exclusion of pressure and excessive demands.

No group or country had a monopoly of truth and goodness, which were inversely proportional to wealth and power, attributes which distorted judgments and generated the idea that what was good for one or for very few was good for all. States had to realize the need to reach an agreement which took account of the legitimate aspirations of each. In the present case, the divergences of views were not due to the ideologies which divided the world but to the existing degree of development; they reflected a schism, not between East and West, but between the industrial and maritime powers of the North and the vast under-developed South, which was determined to participate in the progressive development of the law and the abolition of systems which accentuated inequality between countries.

His delegation had therefore listened with satisfaction to the conciliatory statements made during the present session. Unlike other Latin American countries, Colombia

had not increased the limits of its jurisdiction to 200 miles, although it understood the motives of those countries which had, and with which it felt linked in their struggle for the progress and well-being of their peoples. It hoped that their arguments would be analysed impartially, so that it would be possible to arrive at multilateral definitions, as was the established practice in international law.

His delegation also understood the reasons behind the United States proposal with regard to the international régime and machinery.[1/] The United States idea of fixing a twelve-mile limit to the territorial sea corresponded to the legal position adopted since 1919 and 1923 by Colombia, which saw the merits of the proposal that the boundary of the continental shelf should be the 200-metre isobath, an idea which echoed the statement made by the President of the United States in 1945.

Before any final stand was taken, however, more detailed consideration should be given to the new concept of international trusteeship for the area between the boundary of the shelf and the base of the continental slope up to a certain gradient. At first sight, the concept would seem to be based solely on the particular interests of the country which proposed it, and which since the 1958 Convention confirming the unilateral proclamation of 1945, possessed the largest continental shelf. With trusteeship over the area of the continental margin, which would automatically give it the control and administration of another enormous expanse, and about half the fees and payments receivable, its domain would assume exorbitant proportions.

The geographical situation of the South Pacific countries, which had an extremely narrow continental shelf, sometimes less than two miles wide, and in addition probably only a tiny continental margin, was very different. The United States formula would therefore be inequitable, since it would put some States at a disadvantage while heaping benefits on others.

It would also be inequitable that certain countries, for which it was not enough to satisfy their aspirations with regard to their territorial seas and continental margins, through their technical and maritime strength, should add to that the fishing rights that would fall to them in the waters of the high seas lying above their continental margins, and also claim the right to operate in the superjacent waters of the far narrower and poorer continental margins of other countries, whose fishing resources would thereby be disastrously reduced.

Those specific examples revealed the unfairness of certain apparently general formulas and the need to seek a balance. That anything was possible with goodwill had

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1/ See Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021), p. 130, annex V.

been shown by the representative of Spain (forty-eighth meeting), who, although his country was one of the five foremost fishing countries in the world, had advocated the recognition of full rights for coastal States and had pleaded the cause of countries still in the early stages of development.

At the 1956 Inter-American Specialized Conference, the Colombian delegation had suggested the establishment of systems to protect maritime resources, particularly fish. One such system had been a large area contiguous to the territorial sea in which the coastal State would control fishing without arbitrary discrimination; that would afford it an effective form of protection which it would not have to subject to rules concerning the breadth of its territorial sea.

In 1965, the Inter-American Juridical Committee had suggested the establishment of an area adjacent to the high seas, in view of the particular interest to the coastal State of maintaining the productivity of the living resources of the sea, the aim being to guarantee it preferential rights to the exploitation of those resources while empowering it to take the necessary measures to ensure their conservation.

His delegation thought that possibility deserved examination. Of the four freedoms mentioned in article 2 of the Convention on the High Seas (1958), only the freedom to fish would be limited, but it would not be eliminated and the restriction would benefit mankind as a whole, and more particularly coastal populations.

Uruguay had asserted the idea of regionalization (forty-seventh meeting) as a means of preventing over-centralization in the future régime and of leaving some power of decision with the countries of the various regions. His country had always adhered to the principal of regionalization, both when the United Nations Charter had been drafted and, since then, in the negotiations that had led to the signing of the Subregional Integration Agreement (Andean Pact). It regarded regionalization as something which, rather than detracting from the unity of the system, would strengthen it through co-operation in diversity, seeing that the sea-bed area and its resources were "the common heritage of mankind".

Mr. CASTILLO VALDES (Guatemala) said his delegation intended to be as objective as possible, for it believed objectivity to be the prerequisite for the Committee's success.

Under General Assembly resolution 2750 (XXV), the Committee had been given a general mandate, namely to identify the problems arising from the exploitation of certain minerals from the area beyond the limits of national jurisdiction; to make recommendations for fostering the development of the world economy and minimizing the adverse effects caused by the fluctuation of prices resulting from such activities, and to submit a report on

those questions to the General Assembly; to consider the Secretary-General's study on the problems of land-locked countries and to report on that subject to the General Assembly; and to prepare draft treaty articles on the international régime and machinery and submit a report on the progress of its work to the General Assembly. Under the same resolution it had received a specific mandate with regard to the preparation, for the conference on the law of the sea, of draft treaty articles on the régime and machinery, to be based on the Declaration of Principles [resolution 2749 (XXV)], taking into account the need to ensure the equitable sharing by all States in the benefits to be derived from the exploitation of the resources concerned, and bearing in mind the interests and needs of developing countries; and also the preparation of a list of subjects and issues requiring consideration by the Conference.

He was concerned about the little time available to the Committee to fulfil those two mandates, and he hoped that delegations would take advantage of the opportunity they possessed not only to obtain tangible economic results but also to assure to future generations the benefits to be derived from such a great task of international co-operation. Guatemala reaffirmed its confidence in the goodwill of all, which would enable the Committee to take decisions that would benefit the whole of mankind without any discrimination. It expressed its satisfaction at the results already achieved, and at the structure of the General Committee and the agreement reached on the organization of work.

Mr. Natorf (Poland), Vice-Chairman, took the Chair.

Mr. PINTO (Ceylon) said that his country, because it was an island, and on account of its geographical position, was actively interested in all aspects of the law of the sea. It had taken part in the 1958 Conference on the Law of the Sea and would be reluctant to reopen issues which it regarded as having been satisfactorily settled in the four conventions which had emerged from that Conference. It hoped that the next conference on the law of the sea would be devoted to settling outstanding issues, and in particular the elaboration of an international régime, including an international machinery; the delimitation of the area of the sea-bed to be subject to national jurisdiction, and consequently of the area to be subject to the international régime and of a possible intermediate area; the nature and extent of the jurisdiction of coastal States over areas beyond the territorial sea; the rights and duties of States with regard to the conservation and management of the living resources of the sea; the prevention and control of pollution of the marine environment; scientific research; the definition of the breadth of the territorial sea; and transit through international straits.

The Ceylonese Government considered that the elaboration of the international régime should be based on the Declaration of Principles adopted by the General Assembly in resolution 2749 (XXV), which it supported unreservedly; it was particularly attentive to paragraph 9, which set out the nature and functions of the international régime and the procedure for establishing it. His Government felt that the best way of establishing an effective régime would be the conclusion of a multilateral treaty. In keeping with its policies and with the now recognized status of the sea-bed and its resources as the common heritage of mankind, the Ceylonese Government sought to ensure that as many States as possible participated in the establishment and operation of the régime.

His Government would give very serious, and favourable, consideration to the idea advocated by several countries that coastal States should have exclusive jurisdiction, for economic purposes, over an area of sea adjacent to their territorial sea, although that must not result, in a protein-hungry world, in the under-utilization of marine resources. If the idea was accepted, careful consideration would have to be given to the breadth of the area envisaged and the nature of the rights which applied to it. Its breadth would have to be determined on an equitable basis, taking into account the interests of both coastal States and the international community. The distances so far adopted to satisfy the aims of particular countries - three, six, twelve and in some cases twenty-four miles - no longer reflected the technical and economic realities of the time. It was unlikely that different limits could be established in respect of different zones, for in that case the limit would become stabilized at the maximum; different limits could be adopted for different purposes, however.

Fishery questions might best be resolved on a regional basis; for example, the coastal States of a particular ocean might have preferential fishing rights and the right to take fishery conservation measures in that ocean, and be encouraged to enter into arrangements among themselves on such matters.

Several development countries, including Ceylon, lacked adequate information and statistics regarding the living resources of the sea, and in particular the movement of stocks of fish. FAO should, as soon as possible, provide precise information on the classification and state of fishery resources, their present utilization, and prospects for their development and exploitation, including maps and a technical bibliography.

The prevention and control of pollution called first for a satisfactory definition of pollution, of which the principal sources were the discharge of domestic and industrial waste along coasts; the escape or dumping of harmful materials such as unserviceable toxic or radioactive substances; the discharge of waste from ships and the accidental escape of dangerous cargoes such as oil; and the escape or discharge of harmful

substances during exploitation of the sea-bed. The pollution tresholds for each source of pollution might very according to factors such as the form and quality of the pollutant, its rate of discharge, the kind of protective packaging used, the characteristics of the marine environment, and so on.

Another matter which was still uncertain was the question of liability for damage caused by pollution. In that connexion, it would soon be necessary to answer two questions, namely whether the offender's State should be held directly responsible for damage caused by pollution, and whether, as current State practice seemed to indicate, such responsibility should be "absolute", or "strict".

The existing legal framework was inadequate to combat the pollution of the marine environment. Admittedly, there were articles 24 and 25 of the Convention on the High Seas and the resolution on the disposal of radioactive waste in the sea (also adopted in 1958), as well as article 5 of the Convention on the Continental Shelf and article 6 of the Convention on Fishing and Conservation of the Living Resources of the High Seas. In addition, there was the 1954 International Convention for the Prevention of Pollution of the Sea by Oil. More recently, an International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties and an International Convention on Civil Liability for Oil Pollution Damage had been adopted under the auspices of IMCO. However, those international instruments were only the beginning of the struggle against the growing danger of pollution, which was apparent in the entire environment and had prompted the international community to convene a special conference in 1972. The conclusions of that conference would have to be taken into account in elaborating rules of law for the protection of the marine environment at the 1973 conference on the law of the sea.

His Government believed that a coastal State should have the right to be consulted on an activity which might cause damage in its area, and in certain circumstances be entitled to take preventive measures; that was recognized in paragraphs 12 and 13 (b) of the Declaration of Principles [resolution 2749 (XXV)] . Furthermore, as envisaged in paragraphs 9 and 11 of the Declaration of Principles, responsibility for the marine pollution surveillance system would have to be borne or shared by the new international organization established for the sea-bed. It had to be stressed that questions concerning pollution control and liability for pollution damage were particularly urgent matters for the industrialized countries. The emergent industries of developing countries might be hindered by excessively strict controls, whereas developed countries, which for decades had been seriously polluting the environment and had lacked foresight in that respect, should take more vigorous action.

Where scientific research was concerned, data collected on the marine environment should be disseminated as widely as possible, in the interests of the developing countries. The research capabilities of developing countries would have to be strengthened, particularly through the participation of their nationals in research programmes of developed countries or international organizations. Paragraphs 7 and 10 of the Declaration of Principles could serve as a basis for elaborating the relevant principles. Consideration would also have to be given to the views on the transfer of technology set out in paragraphs 60 to 64 of the International Development Strategy [General Assembly resolution 2626 (XXV)].

He endorsed the Icelandic proposal (forty-ninth meeting) that the Committee should request the continuing technical help of the specialized agencies to enable it to reach decisions on the questions that came before it. He hoped the Chairman and other officers would explore ways of making fuller use of technical expertise, in particular that of the FAO Committee on Fisheries, IOC and IMCO.

Mr. MASSOUD ANSARI (Iran) said that there were three procedural and organizational questions which still had to be settled: the question of the priority to be accorded to the international régime, the treatment of the question of delimitation of the area and the preparation of a comprehensive list of subjects and issues relating to the law of the sea.

His country could agree to priority being given to the establishment of an international régime, provided that the question of the delimitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction could be raised whenever it was relevant to the discussion.

The question of the delimitation of that zone gave rise to differences of views based on geographic and economic considerations. Having regard to those differences, the Committee should itself take the final decision with regard to that question. Sub-Committee II should be requested to make the necessary recommendations to the Committee. With regard to the substance of the question, there now appeared to be agreement on the need to establish a new limit for the territorial sea. There also appeared to be an understanding that jurisdiction over coastal fisheries need not necessarily be tied to the coastal State's sovereignty over its territorial waters. Views differed on that question, however: some considered that the area of national jurisdiction should be delimited on a regional basis or proposed that each State should be free to establish the limit of its sovereignty on the basis of reasonable criteria; others wished to impose a single limit for both maritime sovereignty and all forms of maritime jurisdiction. Iran shared the view of the coastal States which considered that the limits of their exclusive zone of fishing should be extended to a reasonable distance.

With regard to the delimitation of the continental shelf, his delegation thought that the application of a single criterion, that of depth, was unfair. A reasonable criterion of distance should also be adopted which would take into account technological advances and the rights of the coastal States.

He drew attention to the fact that the legal gap between the régime applicable to the ocean space and that applicable to marginal or limited seas was widening, with the result that the former régime could not be automatically applied instead of the latter one without disadvantage to the coastal States. In most cases, the marginal seas were geologically part of the continental land mass; biologically, they belonged to the same ecosystem as the neighbouring land mass; economically, they came within the fields of socio-economic gravity of the riparian communities, which were increasingly dependent on resources of the sea for their subsistence and economic development. The intrusion into those seas of fishing fleets of distant States created an anomalous situation which caused serious economic dislocation in the riparian regions. He therefore hoped that the conference to be held in 1973 would examine the present shortcomings of international law in that respect.

Mr. TUNCEL (Turkey) noted that the General Assembly had entrusted the consideration of questions relating to the area of the sea-bed and ocean floor not to the International Law Commission, which was composed of jurists, but to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, whose composition was primarily political. The decision of the Members of the United Nations that questions which arose in the field of the law of the sea should no longer be regarded as purely legal matters was in keeping with the imperatives of modern life, in which political, economic and social factors exerted considerable influence. The Committee should therefore take those factors into account and the success or failure of its work would largely depend on the approach it adopted to the problems entrusted to it. He was pleased to note that one representative had referred to international social justice as a dominant factor in the deliberations. Indeed, in order to avoid the deadlock in which the 1960 Conference on the Law of the Sea had found itself, delegations should be prompted by a desire to create a more prosperous world, to ensure the conditions for a more equitable distribution of wealth and to achieve economic and social justice on a world-wide basis.

Among the documentation available to the Committee, the four Conventions on the law of the sea were already part of positive international law. In its resolution 2750C (XXV), however, the General Assembly had taken into consideration "the fact that many of the present States Members of the United Nations did not take part in the previous United Nations conferences on the law of the sea". That observation was very relevant and the

thirty or so countries which had acceded to independence since 1958 should have the opportunity of making a joint examination of the Geneva Conventions. Their participation would strengthen the law of the sea either through the contribution of new ideas or through new accessions to the Conventions.

The General Assembly had also taken account of the rapidity of scientific development, as a reason for revising the Geneva Conventions. His delegation was prepared to give favourable consideration to any proposal made in that regard. In order to enable States to assess the recent progress made, however, it was to be hoped that general information concerning the nature and structure of that progress could be made available to them. He asked whether the States which had sufficient information on the sea-bed and its subsoil, as well as on the technical equipment utilized there, would be prepared to provide such information to other States which did not possess it. He thought it desirable, moreover, that the Committee should have available to it studies similar to those which the Secretary-General had submitted to the 1958 Conference.

A procedural question arose in connexion with the revision of the Geneva Conventions. Since the latter contained provisions concerning their revision, he wished to know whether new provisions adopted by the Committee would be incorporated in the Conventions in accordance with the revision procedure for which they provided, or whether new conventions would be adopted. His delegation reserved its position pending the submission of any proposals, but it would be inclined to favour the revision procedure provided for in the Conventions. Proposals might be in the form of amendments to the existing articles or new articles for incorporation in the Conventions. In its view, the Committee should proceed prudently and with caution.

His delegation intended to examine to what extent the provisions of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas no longer met present-day requirements. It would also consider the reasons which militated in favour of the establishment of an international machinery. In its view, the adoption of such a machinery could be facilitated if the geographical location of the possible zones of application of the international régime could be shown clearly on hydrographic charts and if it was possible to obtain some idea of the quantity and importance of the actual resources to be found there. It was highly desirable that the Committee should have at its disposal large-scale hydrographic charts showing the geographical and geological positions of the continental shelves, as well as the sites of the world's biological and mineral resources, so that it would know the position of the zones which could be placed under an international régime. The States which possessed such charts should consider the possibility of making them available to the Committee.

With regard to the question of international machinery, he said that it was a matter of setting up an executive body which would apply the fundamental principles of the régime rather than of requesting Governments to enter into commitments under the Conventions. His delegation was prepared to give favourable consideration to that proposal, and it would revert to it in due course. It would await the Secretary-General's report before giving its views on the economic consequences of the establishment of an international régime for the high seas and on the distribution of the actual benefits to be delivered from such a régime.

The 1958 Conventions on the Continental Shelf and on Fishing and Conservation of the Living Resources of the High Seas already contained provisions relating to oceanographic and scientific research. The need for new provisions should be clearly demonstrated and, if necessary, the provisions of those Conventions could be supplemented in the light of the progress made since 1958. It should be noted that the States which carried out research did not appear to be carrying out the recommendations of those Conventions with regard to the dissemination of the results of their explorations. Before any action was taken which might yeild no results, it was to be hoped that the States which had acquired the desired information should indicate to what extent they were prepared to collaborate in that field, to agree to the access of others to their operations and to publish the results of their research. It would also be desirable if the Committee could be informed of the current technical status of the research.

The prevention of contamination of the marine environment was a serious problem which was of concern to Turkey because of the length of its coast and the dense maritime traffic in its territorial sea and adjacent seas.

The establishment of three sub-committees with clear terms of reference was a cause for satisfaction. The question of priorities could be regarded as settled; as the problems would be examined by one or another of those three bodies, there was no longer any need to request that any particular subject should be given priority. Delegations would thus be entirely free to consider the questions which were of more special concern to them and to make proposals. Moreover, there had been general agreement that all the questions of the law of the sea should be examined simultaneously.

In connexion with its future work, however, the Committee should give some consideration to the question of voting procedure: its composition had been greatly changed and its terms of reference were entirely different. It would have to prepare draft articles rather than principles in future and it was highly desirable to ensure the widest possible participation in that work. Consequently, the Committee would require rules of procedure at its next session.

The Turkish delegation welcomed the fact that the officers of the Committee were considering the question of documentation. The work already done by the Secretary of the Committee confirmed his delegation's hope that the problem would soon be solved.

Mr. Idzumbuir (Democratic Republic of the Congo), Vice-Chairman, took the Chair.

Mr. ARIAS SCHREIBER (Peru) said that there was no need for him to take up the Committee's time by presenting considerations that had already been well covered in the very comprehensive statement made by the representative of Malta (fifty-sixth and fifty-seventh meetings). He had therefore thought it preferable to circulate the text of the statement which he had prepared and to confine himself to a few conclusions.

The discussion had been particularly valuable in showing the importance of the political, economic, social, scientific, technical and legal factors involved in the exploitation of the sea-bed and the ocean floor. It was necessary to assess the implications of those factors and to draw up for the proposed international régime suitable norms which would protect the marine environment and, at the same time, allow judicious use of its resources while respecting the rights of all States, to whichever category they belonged.

The Peruvian delegation welcomed the fact that some delegations of countries which did not belong to the group of developing nations had made realistic proposals on the problems to be solved. That understanding attitude gave hope of an agreement which would lead to fairer, more satisfactory and more lasting solutions.

Special thanks were due to the delegations of Malta and Canada which had not only explained the positions of their Governments, but had also made practical proposals aimed at solving the various problems created by intensification of the use of maritime areas and by the abuses to which it gave rise. Those proposals did not necessarily coincide, but the spirit in which they had been submitted was cause for satisfaction.

Mr. Zegers (Chile), Vice-Chairman, took the Chair.

Mr. IDZUMBUIR (Democratic Republic of the Congo) said that he proposed only to indicate which of the ideas put forward so far in the discussion would have the support of his Government.

The Democratic Republic of the Congo was a small country so far as its opening on the ocean was concerned. A short coastline by the estuary of the Congo river was its only opening to the sea. The continental shelf corresponding to that coastline was not very extensive if depth was taken as the criterion, but it was of considerable importance if possibilities of utilization were taken as criterion, for prospecting had revealed that it contained oil. Furthermore fishing had expanded to an encouraging degree and its future should not be imperilled lightly.

In the light of those factors, his country had supported the proposals adopted by the General Assembly and would take a position on the proposals which the Committee had or would have to consider.

His delegation had voted in favour of the Declaration of Principles adopted by the General Assembly in its resolution 2749 (XXV) because it viewed it as a revolutionary turning point in the evolution of the international community's thinking concerning the law of the sea. The laissez-faire policy which had led to anarchy, abuses and the colonization of maritime areas was being replaced by a more social attitude according to which the resources of international maritime areas would become the reserved domain of the international community, a domain which could no longer be appropriated and the exploitation of which could be undertaken only by persons licensed by the international community.

That domain should be developed, protected and exploited and, for that purpose, international community action should be undertaken by the appropriate bodies in accordance with accepted rules guaranteeing real benefits for the member countries and particularly for the least developed among them. For that reason, the Democratic Republic of the Congo agreed that a machinery with genuine authority should have responsibility for developing the resources of international maritime areas on behalf of the international community, in accordance with the Declaration of Principles adopted by the General Assembly.

For that machinery to be able to function, however, the Committee would first have to determine the limits of the international maritime area and establish for that area a régime which would be consistent with the Declaration of Principles and which would have machinery capable of applying the principles of the Declaration. While his delegation did not take a definite stand on the first question, it nevertheless wished to state that, whatever the system of delimitation adopted and whatever limits were fixed, it would be necessary to ensure a harmonious balance as regards enjoyment and the protection of the economic interests and security of the coastal States on the one hand, and of the international community, on the other. It was because that balance had not been ensured that the international order at present governing the sea was being threatened by unilateral action from all sides.

With regard to the comprehensive list of subjects and issues relating to the law of the sea to be drawn up by Sub-Committee II, it would be useful to ask the Secretariat to request States by means of a questionnaire to provide a list of specific issues relating to the law of the sea on which they felt international legal provisions were lacking or were controversial. The replies should reach the Sub-Committee before the next session.

In that connexion, it would be useful if, as the representative of Yugoslavia had requested, the lists submitted were accompanied by an explanatory memorandum. When it had received the replies, the Sub-Committee should group and classify the issues and discuss them under rules of procedure which it could determine. In that phase of its work, it could be guided by the indicative list contained in General Assembly resolution 2750 (XXV).

With regard to the international régime, it would be necessary to define all the rights and obligations relating to activities undertaken in the international oceanic area. The régime established should put into practice the principles set forth in General Assembly resolution 2749 (XXV) and it should be associated with machinery capable of ensuring, both in the exploitation of the resources of the area and in the distribution of the benefits to be derived therefrom, an equitable balance between the interests of the parties concerned: any exploiting enterprises, the international community, developed or developing countries, or coastal or land-locked countries.

Proposals had been made concerning the machinery's financial resources and their use. Those resources would have to be obtained by means of a system of taxation and assessment which was sufficiently productive, but would not jeopardize the legitimate interests of the exploiting enterprises. He saw no reason to fear that the proposed machinery would discriminate between any exploiting enterprises according to whether they belonged to the capitalist or the socialist system. Experience of business relations between the developing countries and enterprises of those two systems indicated that profit was often the principal factor in the trade or investment agreements concluded between them.

One thing to be avoided was making the machinery cumbersome to the point of reducing its effectiveness and thus unnecessarily increasing its operating costs. It would also be necessary to avoid unwarranted limitation of the base for taxation of the exploiting enterprises, for example, by excluding profits or by diversion of the machinery's resources from their main purpose, namely aid for the development of the poorer countries, to such purposes as payment of compensation to States which have suffered from pollution caused by the exploiting enterprises.

The agreement on the proposed régime should also provide for a system of guarantees against the adverse effects of exploitation of the resources of the international area of the sea-bed on the economy of countries producing competitive materials from land areas.

On the question of priorities, the controversy appeared to be due to misunderstandings rather than to a real difference of opinion. Under the present international order, the limits of the area of national jurisdiction were not disputed, for the failure of the United Nations conferences to standardize those limits had had the result

of leaving to countries the right freely to delimit their own areas of jurisdiction. There was, however, no agreement on the régime for the international area beyond the limits of national jurisdiction, which limits were known. It was clear that the international régime and the limits of national jurisdiction were two closely related, inseparable questions.

The Committee had wisely assigned to Sub-Committee III the consideration of the questions of pollution, conservation of the resources of the international oceanic area and promotion of scientific research in that area. The delegation of the Democratic Republic of the Congo hoped that that Sub-Committee would also be assigned the problem of security, which was related to the problem of the peaceful uses of the sea-bed and the ocean floor. Modern technological developments had made that area of such importance that States could not ignore it without seriously compromising their security and the protection of their economic interests. In all those fields, it was now essential to furnish the developing countries with the necessary assistance to enable them to participate effectively in activities undertaken in oceanic areas.

The problems before the Committee were so closely related that the law of the sea should be viewed as a coherent whole. In that respect, the delegation of the Democratic Republic of the Congo shared the opinion expressed by the representative of Malta at the fifty-sixth meeting: a balanced and equitable international régime for the sea-bed could be established only on the basis of a comprehensive study of the question. It was necessary to choose between accepting an international order for the sea-bed comprising a régime with machinery with genuine authority and capable of implementing the principles enunciated in General Assembly resolution 2749 (XXV), or seeing a series of unilateral actions by States, accompanied by the conflicts of interest which such actions would cause or aggravate. In view of its special situation, the Democratic Republic of the Congo had no alternative but to decide in favour of ensuring better protection of its interests through international co-operation, which it hoped would be as universal as possible.

Mr. Amerasinghe (Ceylon) resumed the Chair.

The CHAIRMAN declared the general debate closed.

The meeting rose at 5.45 p.m.

SUMMARY RECORD OF THE SIXTIETH MEETING

Held on Friday, 26 March 1971, at 11.20 a.m.

Chairman: Mr. AMERASINGHE (Ceylon)

ORGANIZATION OF FUTURE WORK

The CHAIRMAN said that he wished to inform the Committee of the results of the discussion in the Bureau the previous day and of the recommendations which, on behalf of the Bureau, he wished to place before the Committee.

The Bureau had heard a detailed statement by the Secretary on documentation which the Secretary had then been asked to circulate for the information of the Committee. The Bureau had agreed to a suggestion that the Secretariat should circulate a note in the coming April or May asking members to send in the texts of any legislation adopted or treaties concluded since 1969; those texts would then be issued in mimeographed form early in 1972, when the same procedure could be repeated. That would bring up to date the work now in progress on a new volume in the United Nations Legislative Series covering national legislation and treaties concluded up to 1969 relating to the law of the sea. The Secretariat would also issue a document containing the text of the Montevideo Declaration, the relevant portion of the Lusaka Declaration and the Report of the Asian-African Legal Consultative Committee.

In response to an earlier request from the Bureau, the Secretariat had produced a selected list of sea-bed and law of the sea documents which it would circulate unofficially to members of the Committee. It was hoped that some of the needs of delegations could be met from existing stocks, but members should bear in mind that many of the documents were already in the possession of governments and that, in the interests of economy, requests should be kept to the minimum needed for working purposes.

The Secretariat had also been asked to prepare a list of maps which might be of interest to members, together with an indication of where they could be obtained. It had been agreed that the Secretariat should ask the specialized agencies for a list of the documents they considered relevant to the Committee's work, for circulation to members of the Committee in accordance with operative paragraph 11 of General Assembly resolution 2750 C (XXV), and should ask FAO about the possibility of obtaining maps covering the living resources of the seas and oceans.

The Secretariat had prepared, again at the Bureau's request, a brief outline of the functions assigned to and actions taken by the ad hoc Committee and its successor, the present Committee.

The Bureau had discussed arrangements for the 1971 summer session and decided to recommend that the Committee should request approval from the Advisory Committee on Administrative and Budgetary Questions for the provision of the interpretation services required to hold two meeting simultaneously, one of the Committee's full membership and the other of a smaller membership. There would never be more than two meetings needing interpretation at the same time. The intention was to enable the Committee to have all the necessary facilities available for both working groups and meetings of the main committee or the sub-committees - assuming some of the sub-committees set up working groups. No summary records would be provided for any group smaller than a committee of the whole.

The Bureau had considered the question of provisional arrangements for 1972, a matter on which the Secretariat needed to have information for the purposes of the preparation of a provisional calendar of conferences for 1972 and for requesting the necessary budgetary provision. The Bureau had agreed to request the same provisions as for 1971, namely, a four-week session in March and a six-week session in the summer, both to be provided with the same scale of facilities and assistance as envisaged for the 1971 summer session.

With regard to the issues not settled in the agreement reached on the organization of work (see 45th meeting), he would be conducting informal consultations with the different groups between the present and the summer session and hoped to be able to reach agreement on those issues so that the Committee might start work at the summer session without further procedural discussions.

Some members of the Bureau had suggested that Sub-Committee II's work might be furthered if members were to send the Secretariat a list of subjects and issues related to the law of the sea which they considered appropriate for discussion in Sub-Committee II and inclusion in the comprehensive list which it was to prepare. He would welcome observations on that point. If members agreed, the Secretariat would then prepare a comprehensive list and send it to members before the summer session.

It had been agreed that no report should be issued on the present session, which had consisted only of general debate.

Although it was for the General Assembly to decide the place of the 1972 session, the Committee's views on that question would be useful. His own view was that the spring session should be held in New York and the summer session in Geneva.

The SECRETARY said that the estimated cost of providing an extra team of interpreters, on the basis of travel and subsistence for six weeks for eight interpreters from New York, was $11,600.

Mr. ARIAS SCHREIBER (Peru) asked whether the Bureau's proposal meant that the Secretariat would invite Governments to express their views on the list of subjects and issues.

The CHAIRMAN said that the Secretariat would not write to Governments, but that all members were free to send any ideas to the Secretariat for general circulation.

Mr. ARIAS SCHREIBER (Peru) said he was reassured by the Chairman's reply. The question was a difficult and important one and the preparation of a list was one of the specific tasks assigned to Sub-Committee II. The list should reflect the joint efforts, discussions and clarifications of the members of Sub-Committee II. It would be unsatisfactory and irregular to have a list that had not been discussed by Sub-Commitee II.

Mr. VELLA (Malta) said that in his statement at the 56th and 57th meetings, he had mentioned the crucial role of fisheries and the need for regulation to ensure their proper development. Such regulation might have a decisive influence on the success of the Committee's work and in view of the important interests of all countries, including the developing countries, it would be useful if the Committee had before it a reliable study on the subject at the summer session.

In the light of the invitation to FAO contained in operative paragraph 13 of General Assembly resolution 2750 C (XXV), and of the assurance of co-operation given by the FAO representative (54th meeting), he suggested that FAO be requested to provide the Committee at its next session with a working paper containing factual information on the living resources of the sea, the state of their exploitation and utilization and the prospects for their development. If complete information was not available he hoped that at least a preliminary study might be provided; a number of delegations had expressed the same idea during the discussion. He hoped that the paper would show the state of exploitation of certain desirable and valuable species of fish and that it could be presented in a way that would facilitate recommendations on the best management methods to ensure the development of the living resources of the sea.

Mr. ZEGERS (Chile) said that he strongly supported the proposal by the representative of Malta, which complemented his own proposal to the Bureau that FAO be requested to prepare a chart of the sea's living resources. FAO might tackle the two tasks together.

He welcomed the Chairman's assurance and the Peruvian representative's clarifications on the list of subjects and issues. His own delegation had always urged the view that the preparation of such a list was one of the Committee's most important tasks, since it would in effect form the basis for the agenda of the forthcoming conference. It should be clearly established that Sub-Committee II's task was what was asked in

General Assembly resolution 2750 C (XXV), which meant breaking down the subjects in operative paragraph 2 of that resolution and then drawing up a list of practical issues to be discussed by the Committee and by the Conference.

Mr. STEVENSON (United States of America) said he assumed that any proposal regarding the place of the 1972 sessions would be preliminary at the present stage and that the Committee would make its recommendations to the General Assembly at the next session.

The CHAIRMAN said that that would be the case, unless the Committee decided otherwise.

Mr. BEESLEY (Canada) said that he was gratified at the Bureau's speedy action on the first step of the Canadian proposal at the 58th meeting.

The CHAIRMAN said that, if there were no further comments, he assumed that the Committee approved the Bureau's recommendations.

It was so agreed.

CLOSURE OF THE SESSION

The CHAIRMAN said that he had had occasion to refer at the Bureau meeting to the lack of adequate facililities for the Committee, as compared with the facilities provided for other official bodies meeting in Geneva. For example, no office space had been made available for the Chairman and other members of the Bureau who might have needed it. Also, while one official body had a special parking area - it might seem a trivial thing - reserved for it during its session, no similar facilities had been provided for the present Committee. In making those observations he wished to emphasize that he did not lay the least blame on the Committee's own secretariat. The latter had to conform to decisions taken and arrangements made by the Organization in Geneva but he could not be content with a system, if it could be called a system, which did not accord the Committee at least the same treatment as the most favoured official bodies.

The Committee had now complied with the first part of the instructions given to it by the General Assembly in operative paragraph 6 of resolution 2750 C (XXV). Thanks to the spirit of compromise during the first two weeks of the session, the Committee had been able to start on its substantive work with a general debate which had been instructive and had helped members to understand the position of other members, the policies of their Governments and the interests of their peoples. If at the next session a compromise could be found between divergent interests and conflicting policies, the Committee would undoubtedly succeed in accomplishing its task.

After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 12 noon.