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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 SEVENTY-FIRST TO SEVENTY-SIXTH MEETINGS

Held at Headquarters, New York,
from 28 February to 30 March 1972

Chairman:	Mr. AMERASINGHE	Ceylon
Rapporteur:	Mr. VELLA	Malta

The list of representatives appears in documents A/AC.138/INF.6 and Add.1-7.

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SUMMARY RECORD OF THE SEVENTY-FIRST MEETING

Held on Monday, 28 February 1972, at 11.40 a.m.

Chairman: Mr. AMERASINGHE Ceylon

OPENING OF THE SESSION

The CHAIRMAN opened the 71st meeting of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. That marked the beginning of the first of the two sessions the Committee was to hold in 1972, under the provisions of paragraph 4 of General Assembly resolution 2881 (XXVI). During the session the Committee would continue the work the General Assembly had assigned to it in resolution 2750 C (XXV) in preparation for the conference on the law of the sea, to be held in 1973.

Since the Committee's previous session, an event of historic importance had taken place: the restoration of the lawful rights of the People's Republic of China in the United Nations. Now that China was a member of the Committee, the five great Member Powers of the United Nations were represented on it; that could only add to the usefulness of its work. He therefore welcomed the representatives of China and those of the other countries which had become members of the Committee in pursuance of paragraph 3 of General Assembly resolution 2881 (XXVI) - Fiji, Finland, Nicaragua and Zambia. He also welcomed the presence of Mr. Stavropoulos, representative of the Secretary-General, and congratulated Mr. Kurt Waldheim, on behalf of the Committee, on his election. He expressed his gratitude to Mr. Waldheim's predecessor, U Thant, for the help which he had given the Committee in the past.

ORGANIZATION OF WORK

The CHAIRMAN wished to report to members of the Committee on the discussions that the Bureaux of the Committee and the Sub-Committees had just conducted.

At the previous session, it had been decided to consider the general debate closed. It was however the custom that new members should have an opportunity to make a general statement; one meeting might be allotted for that purpose.

The Committee's work programme contained two questions having the same degree of priority: the preparation of 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, allocated to Sub-Committee I; and the preparation of a comprehensive list of subjects and issues relating to the law of the sea, allocated to Sub-Committee II. With regard to the latter point, it would be best if Sub-Committee II did not engage in substantive debate until the agenda of the conference on the law of the sea had been drawn up.

The priority attached to those two questions should not obscure the importance in 1972, the year in which the United Nations Conference on the Human Environment was to be held, of the task given to Sub-Committee III: to deal with the preservation of the marine environment (including the prevention of pollution) and scientific research.

The setting up, at the previous session, of contact groups representing the various geographical groups in the Committee had proved to be very useful, and that arrangement should be maintained at the current session.

It had been decided that Sub-Committee I would meet in the afternoon of Tuesday, 29 February; Sub-Committee II in the morning of Wednesday, 1 March; and Sub-Committee III in the afternoon of Wednesday, 1 March.

Mr. PEREZ DE CUELLAR (Peru) said he hoped that delegations which had not made statements in the general debate during the previous session would have the opportunity to do so at the current session.

The CHAIRMAN said that the general debate was not permanently closed. The Committee would however gain a great deal of time if general statements were limited to new members.

If there were no objections, he would consider that the Committee approved the organization of work as he had just outlined it.

It was so decided.

The meeting rose at 12 noon.

SUMMARY RECORD OF THE SEVENTY-SECOND MEETING

Held on Friday, 3 March 1972, at 10.45 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL DEBATE

Mr. ROTKIRCH (Finland) thanked the Chairman and the members of the Committee for giving his delegation, which had just become a member of the Committee but had been present as an observer at Committee sessions since 1969, an opportunity to make a general statement, although the general debate had been closed at the previous session. He assured the Committee that his delegation was fully prepared to co-operate with other delegations in searching for a solution to the complex problems before the Committee.

The Committee's activities had been steadily expanding since the establishment in 1968 of an Ad Hoc Committee, which had become permanent in 1969 and had been enlarged in 1970 and in December 1971. That development showed a growing awareness of how intricate and interrelated were the problems concerning the sea and the sea-bed. The Committee's original limited task of regulating the exploration and exploitation of the sea-bed had now grown to encompass many other questions, such as freedom of access to the high seas, the width of the territorial sea, fisheries and the preservation of the marine environment as a whole.

One of the tasks entrusted to the Committee in 1970 had been the drafting of a comprehensive list of subjects to be submitted to the next Conference on the Law of the Sea. Perhaps the best course, for the present, would be to avoid excluding any relevant subject and let the General Assembly decide which items should be referred to the Conference. However, the Conference could hardly be successful if its agenda included every question relating to the law of the sea. The work should therefore be concentrated on certain main issues that needed regulation. A choice of those issues would no doubt be very difficult but very important, for the outcome of the Conference must be widely accepted if the situation was not to grow worse.

At the earlier conferences on the law of the sea, some matters, such as the maximum width of the territorial sea and questions of fishing in areas adjacent to the territorial sea, had been left completely unregulated. Regulations concerning those questions were now urgently needed. The Finnish position was that the maximum breadth of the territorial sea should be 12 nautical miles. With regard to fisheries, his delegation wished to reaffirm the position it had expressed in the First Committee of the General Assembly, namely, that the vital interests of States essentially dependent on fisheries must be taken into account.

(Mr. Rotkirch, Finland)

The 1958 Conference on the Law of the Sea had, however, adopted four conventions and an optional protocol. The provisions of those conventions were binding on the States Parties. Finland had ratified all four conventions and the optional protocol. Many provisions of the conventions were rules of customary international law and therefore were binding even on States which had not acceded to the conventions. Other principles of customary international law, which had never been enunciated in conventions on the law of the sea, should also be regarded as binding on States. However, technical development both in the use of the oceans for shipping and fishing and in the exploitation of the sea-bed and its subsoil at ever-increasing depths had eroded the meaning of some provisions previously agreed upon. The fact that a number of States Members of the United Nations had not participated in the previous United Nations conferences on the law of the sea had been noted in General Assembly resolution 2750 (XXV) and should not be forgotten. All of those facts militated in favour of reviewing some of the previously agreed provisions. Nevertheless, many of the principles relating to the law of the sea remained fully valid. Moreover, some questions seemed to lie outside the scope of the Conference on the Law of the Sea; for example, the prohibition of "pirate" broadcasting stations was a problem which could be better handled by ITU.

The Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted unanimously by the General Assembly in 1970, formed a good basis for the drafting of rules relating to the use of the sea-bed. His delegation wished to draw attention to the first principle in that Declaration, which introduced a new and, indeed, unique concept in international law. According to that principle, the sea-bed and the ocean floor beyond the limits of national jurisdiction, as well as the resources of that area, were the common heritage of mankind. Consequently, no State had the right to claim unilaterally jurisdiction over a larger part of the sea-bed than it was entitled to under international law, nor to exploit the resources of the international area until the matter had been settled by international agreements. The definition of the area in which international law recognized the right of coastal States to exercise jurisdiction over the sea-bed was difficult and should not be settled without taking due account of land-locked or shelf-locked States. An equitable solution would be one that combined the criteria of distance and depth.

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(Mr. Rotkirch, Finland)

The question whether the international sea-bed régime or authority should be empowered to explore the international sea-bed area and exploit its resources for peaceful purposes or whether its powers should be limited to the issuance of licences for exploration was a very complex one. One difficulty arose from the fact that the powers to be entrusted to the authority would depend on the size, not yet decided, of the area under its control. In his delegation's view, however, it was most important that all exploration and exploitation of the international sea-bed area should take place in an orderly fashion and under control. The powers delegated to the authority should enable it to make sure that the exploration and exploitation of the sea-bed were conducted in accordance with the Declaration of Principles and in such a way that all States, both coastal and land-locked, would be able to participate in such activity on equal terms. Special attention must be paid to the interests of the developing countries; for example, it would be desirable for the authority to establish a training programme to enable those countries to take advantage of the available opportunities.

Many States had expressed a fear that the exploitation of certain sea-bed mineral resources might adversely affect the economy of those States for which such minerals were a prime resource. The Secretary-General's report entitled "Possible impact of sea-bed mineral production in the area beyond national jurisdiction on world markets, with special reference to the problems of developing countries" (A/AC.138/36) dispelled much of that fear. Nevertheless, the new organization should be able to control and regulate not only the ecological but also the economic aspects of the exploitation of sea-bed resources.

The comparative table of draft treaties, working papers and draft articles (A/AC.138/L.10) prepared by the Secretariat would be useful to the Committee in determining what type of régime or authority should be set up. The Secretary-General's report entitled "Possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond the limits of national jurisdiction" (A/AC.138/38) also provided a good basis for discussion in that regard.

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(Mr. Rotkirch, Finland)

The question of freedom of scientific research had not yet been thoroughly discussed by the Committee. In his delegation's view, it was of the utmost importance that that traditional freedom should not be restricted in any way on the high seas or on the sea-bed or ocean floor beyond the limits of national jurisdiction, since research was an activity which benefited all mankind. According to article 5, paragraph 8, of the Convention on the Continental Shelf, coastal States would not normally withhold their consent to a request submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf. That principle should be upheld in any future convention. Needless to say, coastal States could not have any right to restrict or interfere with scientific research on the high seas. At the same time, it should be required that all final results of such research undertaken in the sea or on the sea-bed beyond the limits of national jurisdiction should be made available to all States. That would be in conformity with the seventh principle of the Declaration of Principles.

The prevention of pollution, in his delegation's view, meant that the different operations affecting the marine environment should be regulated and controlled in such a way that the ecosystems of the oceans would be disturbed as little as possible. In other words, the discharge into the ocean of substances which had harmful effects on the marine environment must be prohibited. Several international organizations were studying the problems that arose in that connexion. The International Law Association had recently prepared a draft convention on maritime pollution of continental origin. Many specialized agencies, such as WHO, IMCO, UNESCO and AIEA, were also working on the problem. The preservation of the marine environment and the prevention of excessive marine pollution would be central topics at the Conference on the Human Environment, to be held at Stockholm in the near future. It was expected that the Conference would adopt a declaration of principles regarding the human environment.

According to the agreement on organization of work adopted by the Committee, Sub-Committee III was to deal with the preservation of the marine environment, including the prevention of pollution, and to prepare draft treaty articles on the subject. It was important that Sub-Committee III should begin its work before the end of the current session, rather than merely await the outcome of the

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Stockholm Conference. His delegation believed that world-wide agreements and arrangements for the protection of the marine environment must be established and a world-wide system of control must be set up. At the same time, regional and bilateral agreements could be concluded. It was important, in that context, to prepare effective national legislation, along with international agreements. Finland, for its part, had been one of the first States to enact legislation concerning the prevention of marine pollution.

Some coastal States claimed the right to exercise effective control over pollution in vast areas adjacent to their territorial seas in order to prevent pollution of their coastlines. But protecting shores and coastal waters was not enough; the seas and oceans as a whole must be preserved. Therefore unilateral measures in that sphere could not be approved and would not be effective. Only regional agreements or, in the case of the oceans, a world-wide agreement would make it possible to take the necessary measures to control pollution.

It should also be borne in mind that enclosed or semi-enclosed seas posed special problems. For example, the effects of pollution might be much more noticeable in the Baltic Sea than in the oceans. His Government was therefore actively endeavouring to conclude agreements with the Governments of neighbouring countries in order to prevent pollution of that sea. In particular, Denmark, Finland, Norway and Sweden had concluded in 1967 an agreement aimed at preventing oil pollution. Similarly, the North Sea coastal States had concluded in 1969 an agreement concerning oil pollution, under which each State Party would inform the others of any circumstance likely to cause pollution of their coast. Furthermore, a few weeks ago, those States had signed an agreement prohibiting the dumping of certain poisonous pollutants into the North Sea.

The Secretary-General's report entitled "The sea: prevention and control of marine pollution" (E/5003) provided a useful survey of the various pollutants affecting the sea. The report concluded that marine pollution was caused by a variety of human activities conducted both on land and at sea and could be remedied only by action to prevent pollution caused by land activities.

At the last session of the Committee, Canada and Norway had submitted a draft resolution on preliminary measures to prevent and control marine pollution (A/AC.138/SC.III/L.5). It included an appeal to Member States to take

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appropriate preliminary steps to prevent and control marine pollution within their own national jurisdiction until adequate international instruments had been worked out. His delegation supported that draft resolution. The measures taken in various national legislations to that end should be brought into conformity with each other.

The fifth and eighth principles of the Declaration stated that the international sea-bed area should be used exclusively for peaceful purposes. In that connexion, it should be recalled that certain limited arms control measures had been taken by the General Assembly when it had approved 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. Finland had ratified that Treaty. Its scope was limited, however, since it did no more than prohibit the deployment of weapons of mass destruction in the sea-bed area beyond 12 miles from the coast. The Declaration of Principles went much further, and it was to be hoped that agreements aiming at a further demilitarization of the international sea-bed area would be concluded soon.

The task facing the Committee was to concentrate on the specific issues and, if possible, to start drafting articles. That would certainly be difficult, as differing points of view would have to be reconciled. If compromise solutions were not possible, the Committee ought to present alternative draft articles, among which a choice could be made. The need to convene a conference was urgent because certain coastal States had recently adopted unilateral measures and others might follow their example, thereby complicating the situation even further. It was important that the conference should be well prepared. His delegation hoped that the Committee would make rapid progress towards that goal during the current year.

Mr. AN Chih-yuan (China) thanked the Chairman and the representatives of many countries for their welcome and said that it was a pleasure for his delegation to work together with others for an equitable and reasonable solution to the problem of rights over the seas and oceans. The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor had been established on the initiative of the developing countries, and many Asian, African and Latin American States

(Mr. An Chih-yuan, China)

had already played a positive role by putting forward a number of reasonable proposals in the interest of the peoples, safeguarding State sovereignty and opposing great-Power hegemony. He was gratified to see that their position was winning increasingly extensive support because it reflected the historical trend of the contemporary world and the growing role of the third world countries in international affairs.

Since imperialism had come into being, it had run rampant over the seas and oceans and committed aggression and plunder at will. After the Second World War the United States had attempted to dominate the world and had increasingly extended its activities from the surface of the sea to the sea-bed. It had violated the territorial waters of many countries and plundered their undersea resources and had even committed armed intervention and aggression. Realizing the importance of being the first to gain control of the sea-bed, the other super-Power had also energetically sought to establish its presence in the seas and oceans everywhere. The two super-Powers were contending and yet acting in collusion with each other at the same time in order to dominate the seas and oceans. While paying lip service to the peaceful uses of the sea-bed, they were in fact stepping up the development of nuclear submarines, emplacing nuclear and other military installations on the sea-bed and using it for arms expansion and war preparations. Under the guise of jointly exploiting sea-bed resources, they were sending out their so-called research ships and fishing vessels for brazen intrusion into the territorial seas of other countries and unbridled plunder of their undersea wealth and coastal fishing resources. Such expansionist acts by the super-Powers harmed the economic interests of many coastal States, especially those of Asia, Africa and Latin America, and violated their national sovereignty.

Tremendous changes had taken place in the world during the past 20 years. Many countries in Asia and Africa had attained independence. The Latin American countries, which had suffered long from imperialist enslavement and oppression were vigorously struggling against aggression, seizure and plunder. To resist robbery and plunder of their coastal fishing resources by the super-Powers, many Latin American countries had declared the limits of their territorial seas

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to be 200 nautical miles from the coast and had undertaken a just struggle in defence of their rights over their territorial waters. In recent years, that struggle against maritime hegemony had gradually extended from the South-East Pacific to the other seas and oceans of the world.

But imperialism was not reconciled to its defeat. The super-Powers had resorted to intimidation and blandishment in a vain attempt to overcome the resistance of the Latin American countries. Those countries, however, refused to be subdued, cowed or deceived. Every time foreign pirate fishing vessels had intruded into their territorial seas, they had arrested and fined the pirates, thus placing the super-Powers in an unpleasant predicament and isolating them more and more from the rest of the world. The heroic struggle of the Latin American countries to safeguard their rights over their territorial seas had won them the sympathy, admiration and support of the peoples of the rest of the world. It proved that small and weak countries could triumph if they increased their vigilance, strengthened their unity and supported one another and that the super-Powers, despite their size, were not at all frightening and could be defeated.

The super-Powers had tried hard to find arguments in international law for their own defence. First, they had asserted that the limit of the territorial seas of States had been set by international law at 3 nautical miles. Later, under the pressure of circumstances, they had changed that distance to 12 nautical miles and attempted to accuse the Latin American countries of violating international law by setting the limit of their territorial waters at 200 miles. But it was well known that there had never been a uniform and internationally recognized limit for territorial waters. Each country had exercised its sovereignty and had itself established the extent of its territorial waters. There were currently more than 10 different ways to establish territorial-sea limits, which ranged from 3 to 200 nautical miles, depending on the State.

It was inadmissible that the countries of the world should be required to agree to the decisions of the super-Powers which first declared that they favoured a limit of 3 miles and then decided to extend it to 12 miles, while the other countries, over 100 in number, were expected to acquiesce in their decisions. That was no longer international law but a blatant violation of the principles of national sovereignty.

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It was the super-Powers which violated the principles of freedom of international navigation and freedom of fishing. It was their fishing vessels which intruded into the territorial waters and plundered the fishery resources of many other countries while they claimed that the just stand adopted by the small- and medium-sized countries and the measures taken by them to defend their territorial waters and resources were violations of those freedoms. It would seem that the super-Powers were free to act as they pleased, to run amuck on the seas and oceans and to treat the territorial waters and sea-bed areas of other countries like their own inland waters and colonies, while other coastal States, especially those of Asia, Africa and Latin America, did not even have the right to defend their territorial waters. That sort of freedom was impermissible in the contemporary world.

All of those facts showed that the current international struggle with regard to rights over the seas and oceans was in essence a struggle between aggression and resistance, between plunder and conservation, between foreign hegemony and independence, a struggle of Asian, African and Latin American countries in defence of their national rights and interests and their sovereignty against the hegemony of the super-Powers.

The Chinese people had suffered long from imperialist aggression and oppression. The United States was still forcibly occupying the Province of Taiwan, which was Chinese territory. Recently, acting in collusion with the Japanese reactionaries and using the fraud of the so-called "reversion of Okinawa", it had attempted to incorporate into Japanese territory Tiaoyu and other islands appertaining to China's Taiwan Province. Furthermore, in recent years, in collaboration with Japan and in collusion with the Chiang Kai-shek clique, the United States had conducted frequent and large-scale undersea explorations in the waters off the Chinese coast, in a further attempt to plunder China's undersea resources. Those flagrant acts of aggression and plunder could not but arouse the indignation of the Chinese people. The Government of the People's Republic of China reaffirmed that China's Taiwan Province and all the islands appertaining to it, including the islands of Tiaoyu, Huangwei, Chihwei, Nanhsiao, Peihsiao etc., were part of China's sacred territory. The sea-bed resources around those islands and in the shallow waters adjacent to other parts of China belonged completely to China,

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and it was absolutely impermissible for any foreign aggressor to plunder them. No one would be allowed to carve off Chinese territory and plunder China's sea resources under any pretext, and no attempt to do so would ever succeed.

The Chinese Government and people had always resolutely taken the side of all small- and medium-sized countries subjected to aggression, subversion, seizure, interference and bullying by the super-Powers, the side of the peoples of Asia, Africa and Latin America. China firmly supported the just struggle undertaken by the Latin American countries in defence of the 200-mile limit of their territorial waters and their own marine resources and resolutely opposed the maritime hegemony and power politics of the super-Powers.

More than three years had passed since the United Nations and the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor had started to discuss questions concerning the law of the sea, yet little had been achieved. The reason was that one or two super-Powers, disregarding the sovereignty of the overwhelming majority of countries, were trying to impose on others "resolutions" and "conventions" designed to strengthen their hegemony over the seas and oceans and to give a colour of legality to their encroachment upon the sovereignty of other countries and plunder of their resources. Such an abnormal state of affairs must not be allowed to continue.

All States must respect the principle of the equality of small and large countries in settling questions concerning rights over the seas and oceans. China was resolutely opposed to letting one or two super-Powers act arbitrarily, give orders and impose their will upon others.

It was within each country's sovereignty to decide the extent of its rights over territorial seas. Coastal countries were entitled to define reasonably the limits of their territorial waters and jurisdiction, taking into account their geographical circumstances, their security needs and their national economic interests, as well as the requirement that coastal States bordering the same seas should define the boundary between their territorial waters on the basis of equality and reciprocity.

All coastal States had the right to dispose of the natural resources in their coastal seas and the sea-bed and subsoil thereof so as to promote the well-being of their people and the development of their national economic interests.

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The seas and the oceans, as well as sea-bed resources beyond the limits of territorial waters and national jurisdiction, were, in principle, the common heritage of all the peoples of the world. Questions concerning their use, exploitation and the like should be settled by consultation between all countries, both coastal and land-locked; one or two super-Powers had no right whatever to monopolize them.

The sea-bed and ocean floor beyond the limits of territorial waters and national jurisdiction must be used only for peaceful purposes in the interest of safeguarding international peace and security and must not be used to serve any country's policy of military aggression.

The five principles of peaceful co-existence should be the principles guiding relations among States. The sovereignty and territorial integrity of all countries and their rights and interests in the seas and oceans should be universally respected. China resolutely opposed any foreign aggression, interference or plunder.

China was deeply convinced that those proposals were in keeping with the fundamental interests of all peoples and with the spirit of the principles of the United Nations Charter and provided a basis for discussions with a view to an equitable and reasonable settlement of the problems concerning rights over the seas and oceans. It hoped that the Committee at its current session would give serious consideration to the Chinese delegation's position and would make progress through the combined efforts of all participating countries.

Mr. BENITES (Ecuador) drew the Committee's attention to the recent decision of the United States Congress which, on 2 March, had adopted an amendment to the foreign aid bill; under that amendment, none of the funds made available by the provisions of the bill could be used for aid to Ecuador unless the President felt such aid should be granted in the interests of the United States. That text had been adopted by the two Houses after lengthy debate and on the basis of a proposal made by Mr. Van Deerlin, of the House of Representatives, following the seizure of United States fishing boats.

That was not only a discriminatory measure, but also a manifestation of imperialism pure and simple since one country was attempting, by coercive

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measures, to impose on another its own point of view on a question, namely, the breadth of the territorial sea.

The Committee was directly involved since, under the terms of paragraph 6 of General Assembly resolution 2750 C (XXV), it had to draw up, in preparation for the Conference on the Law of the Sea to be held in 1973, a comprehensive list of subjects and issues relating to the law of the sea, including the question of the territorial sea and particularly that of its breadth. That was sufficient proof that there were currently no standards of international law in force on that point. There were, admittedly, certain customs but, as the representative of China had pointed out, they varied from one country to another.

Under those conditions, the seizure by the Ecuadorian authorities of fishing boats owned by private concerns in the United States was a problem of private and not of public international law as one might think in the light of the measures just adopted by the United States Congress. Such a form of reprisal was contrary to the United Nations Charter and constituted a violation of the provisions of General Assembly resolution 2626 (XXV) on the International Development Strategy for the Second United Nations Development Decade, in which it was stated (para. 46) that financial and technical assistance should be aimed exclusively at promoting the economic and social progress of developing countries and should not in any way be used by the developed countries to the detriment of the national sovereignty of recipient countries.

The President of the Republic of Ecuador had stressed that aspect of the matter in his statement on the subject to the press, and he had also stated that the amendment as adopted represented an act of imperialism on the part of the United States Congress, which sought to limit the sovereignty of developing countries over their natural resources. The co-operation required from the developed countries ought not to be subject to political pre-conditions or to the interests of pressure groups; nor should it be used as an instrument of reprisal. His Government desired that relations between Ecuador and the United States should remain friendly; however, the decision of the United States Congress was bound to affect them in the future. It was thus to be hoped that the United States Government, for its part, would put the solidarity of the countries in the hemisphere, as well as justice and respect for freedom, before the individual interests of certain private firms.

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Mr. PEREZ DE CUELLA (Peru) said he shared the opinion of the representative of Ecuador. He stressed that the right to protect its own natural resources and to use them as it wished was one of the fundamental rights of every country. The measure just adopted by the United States Congress was contrary to the principles of the Charter of OAS, which had been signed by both the United States and Ecuador; furthermore, it was particularly unfortunate at a time when the Committee was preparing for the Conference on the Law of the Sea and when the number of countries which considered 200 nautical miles to be a reasonable limit to the breadth of the territorial sea was becoming ever larger.

Fortunately, it was known that the United States Government was opposed to the amendment; there was hope, therefore, that President Nixon would not apply the penalty in question and would find other means of settling the dispute between his country and Ecuador.

Mr. DIAZ-CASANUEVA (Chile) said he felt the measure taken by the United States Congress was of very grave import not only for Ecuador but also for all the countries of the third world. Ecuador could count on the whole-hearted solidarity of the Chilean people and Government in the face of the attempts at intimidation and the coercive measures of which it was a victim. Chile was also the victim of pressures which amounted almost to aggression. Yet again, that attitude was contrary to the provisions of the United Nations Charter and of that of OAS, article 19 of which specified that no State could apply or take coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind. Such pressures were aimed at destroying the very basis for international development co-operation and the principles which guided the international organs for financial and technical assistance.

Mr. AN CHIH-YUAN (China) said he firmly supported the position of the Ecuadorian delegation, which was fully justified, in its protest against the decision of the United States Congress to suspend all aid to Ecuador and in its denunciation of United States power politics. By seizing the United States fishing boats which had entered Ecuadorian territorial waters and by fining them,

the Ecuadorian Government had merely defended its rights over those waters and protected the important economic resources contained therein; all those actions were perfectly justified and in accordance with principles of the United Nations Charter.

By its decision, the United States Congress was not only exerting pressure on a sovereign State, but was also attempting to influence the Committee and its debates. His delegation was firmly opposed to such pressure and was convinced that the legitimate struggle of the countries of Latin America to assert their rights over their territorial seas and to protect their marine resources would earn them the sympathy and support of all countries and peoples which upheld the cause of justice.

Mr. STEVENSON (United States of America) said he rejected the accusations of aggression and imperialism just made against his country. He reserved his right to reply in greater detail at a later stage. The current situation made it clear that, on many aspects of the law of the sea, there were differences of opinion which could sometimes become real conflicts.

During the Committee's discussions his delegation had always tried to bear in mind the interests of other countries and to reconcile them with those of the United States. It intended to continue to co-operate in the Committee's work in a positive manner, without launching into polemics.

Mr. OGISO (Japan) said he had noted in the statement by the representative of China allusions to two points, namely, the return of Okinawa to Japan and the question of sovereignty over the Senkaku Islands, which had been presented in such a way that he felt obliged to reply.

The reversion of administration of Okinawa to Japan represented the fulfilment of a wish which had always been dear to the entire Japanese people and it would meet with their indignation if the Chinese delegation tried to call it a "fraud." His Government's position with regard to sovereignty over the Senkaku Islands had not changed: no country other than Japan would validly claim sovereignty thereto. Furthermore, the Committee was certainly not the proper forum to challenge the territorial sovereignty of a State over an island since it was clearly outside the scope of its mandate. He, however, felt obliged to point out, since reference had been made by the Chinese delegation, that the allegation of the Government of the People's Republic of China was totally groundless.

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The assertion of Chinese national sovereignty over the continental shelf of the East China Sea was to be regretted if it meant that no other country could make a valid claim over the said shelf in that area. He reserved the position of his Government, which was that his country has sovereign rights over the resources in a part of the continental shelf in the East China Sea in accordance with the rules of international law.

Mr. GUERERO (Brazil) expressed his concern at the disclosures made which could only harm the atmosphere in which the Committee's discussions were held. He could only hope that they would not lead to concrete measures on the part of the United States Government.

The meeting rose at 12.20 p.m.

SUMMARY RECORD OF THE SEVENTY-THIRD MEETING

Held on Friday, 10 March 1972, at 10.50 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL DEBATE (continued)

Mr. SEVILLA-SACASA (Nicaragua) said that his country had long felt a need to become a member of the Committee; in view of its history, geographical position, small size and relative lack of resources, the sea offered Nicaragua an opportunity which it should be allowed to have under the norms and institutions now being outlined in order to ensure a prosperous future for later generations.

The specific aspects of Nicaragua's position on problems relating to the sea were reflected in the laws and regulations promulgated by its Government and in the statements made by its representatives at the General Assembly; he would therefore confine his statement to a few aspects of the Committee's work.

The principles set forth in the Geneva Conventions had served their purpose, but in the light of the new positions adopted by leaders and peoples and of scientific and technical advances which made the sea a means for development and progress, they should yield to the new aspirations of mankind. Nicaragua had not acceded to those Conventions, but that did not mean that it was opposed to all their provisions; some of its laws and regulations concerning the sea and its natural resources were based on them. In view of the close connexion between the various problems of the sea and between them and other aspects of relations among States, his delegation believed that any revision should cover all relations and interests affecting the sea and its resources.

Nicaragua wanted to see the establishment of an international machinery which would provide equal opportunities for all, not as a privilege but as a right. It therefore welcomed all steps taken with that end in view.

The diversity of the proposals submitted to the Committee clearly revealed its freedom of choice, which was necessary to its work. Although its task thus far had been hard, what remained would be harder still, because of the magnitude of the problems faced, in particular, by the developing countries.

A clear distinction should be made between the two aspects of the international machinery which was to ensure the peaceful exploitation of the oceans in the interest of all mankind: it should perform, on the one hand, a political and normative function and, on the other hand, an administrative function when circumstances so warranted. Those two basic roles should not be entrusted to the same body, although the establishment of an international régime in which the two

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functions were kept separate was not precluded: mankind, through an agency under its control, would then carry out the operations required for the management of its resources when there was no alternative.

If conducted scientifically, the exploitation of the resources of the international ocean space could open undreamt-of research opportunities for international development and co-operation and could provide the funds through which the problems of the third world could be better dealt with. In that regard, his Government would particularly welcome the formulation of criteria which would guarantee each State its fair share. The principle of equality should be applied as early as the stage at which the possibilities for profit-sharing were identified; accordingly, attention should be paid to the limitations imposed on countries by the inadequacy of their human resources, skills and technology and the difficulties resulting from restricted economic potential. The criteria for dealing with the common heritage of the sea should relate not only to the distribution of the ultimate profit, but also to the factors which determined its volume, its terms and conditions and its nature. In that regard, the precedents set by the United Nations, particularly the Declaration of Principles contained in General Assembly resolution 2749 (XXV), would be extremely useful. In view of the present world situation, however, some of these principles could not be applied immediately.

The long lists of subjects and questions submitted to the Committee for consideration reflected national policies and emphasized the range of divergent interests which the Committee would have to try to reconcile. His delegation had given thorough study to the documents submitted by the other Latin American countries, which contained ideas similar to its own. Furthermore, the positions of other countries included interesting ideas which could strengthen the proposals submitted by the Latin American countries.

Mr. NANDAN (Fiji) said that at the previous session, the then observer for his country had already outlined the special position of Fiji, a mid-ocean archipelago. In discussing that point in more detail and taking up other aspects of the law of the sea, he intended not to adopt a hard and fast position but

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merely to put forward thoughts that might provide the basis for a dialogue from which, he hoped, some consensus of opinion would emerge.

In its 1951 judgement in the Anglo-Norwegian Fisheries Case, the International Court of Justice had endorsed the principle that in determing the points in relation to the coastline from which the breadth of the territorial sea was to be measured, straight baselines might be drawn following the general direction of the coast instead of following all its sinuosities. The Court had thus rejected the previously held opinion that the maximum closing distance permissible for bays and other sinuosities of the coast was 10 miles, thereby destroying the very basis upon which the 10-mile baseline for the delimitation of archipelagic waters rested. In fact, the Court had accepted baselines as long as 44 miles. On another point, the Court had determined the criteria to be applied in testing the validity of delimitations within territorial limits of waters previously considered to have formed part of the high seas. It would appear from that judgement that the islands composing an archipelago must be linked as a geographical entity or as an intrinsic economic unit.

While the judgement rendered by the Court in that case applied to coastal archipelagos, the principles on which it had been based were equally applicable to mid-ocean archipelagos. For example, the condition that a baseline must not depart to any appreciable extent from the general direction of the coast was applicable to mid-ocean archipelagos if it was recognized that it was merely a method of expressing the requirement for an intrinsic relationship between a line of natural features and the land to which those features formed a barrier. In the case of a mid-ocean archipelago, such a relationship existed between the natural features forming it, so that the situation was analogous to that of the complex coast of a continental country.

His delegation believed that the archipelagic problem had thus far been neglected in international law. It was therefore seeking a solution, as a matter of urgency, in order to safeguard the interests of archipelagic States. It proposed that baselines should be drawn around the outer extremity, at low-water mark, of all the islands or drying reefs of the Fiji Group between which an intrinsic relationship could reasonably be deemed to exist and that the

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limits of the territorial sea should be drawn outward of those baselines, with an exclusive fisheries zone being established within an area bounded by lines fixed at a distance of 12 miles from those baselines. They would not include the islands of Rotuma, the Ono-i-Lau Group, the islands of Vatoa or Conway Reef, which were not considered strictly part of the Archipelago in his delegation's interpretation of the term.

The interests of archipelagic States could be accommodated without prejudice to those of other States by acceptance of the view that the enclosure of waters by archipelagic baselines did not have the effect of depriving other States of their right of passage through those waters. If the rules applied by the International Court of Justice for drawing straight baselines were valid for oceanic archipelagos, the rules applicable to the closure of coastal waters formerly considered to be part of the high seas were likewise equally applicable to the closure of oceanic waters which had had the same status.

Under those conditions, oceanic archipelagic waters would be subject to the general principle of the law of the sea set out in article 5, paragraph 2, of the 1958 Convention on the Territorial Sea and Contiguous Zones, namely that the right of communication should be preserved. The best way of guaranteeing that right to other States would be to equate archipelagic waters with international straits. The right of communication should be limited simply to a right of transit (including the right of overflight, which should, however, be subject to regulations laid down by the archipelagic State regarding the safety of navigation and the protection of the environment and to police, customs and quarantine regulations and should in no way restrict the exclusive rights of that State to the exploration and exploitation of the natural resources in the area.

His delegation appreciated the problems to which that right of pasage might give rise and was aware of the need to keep sea and air lanes open, for their closure by an archipelagic State could have serious economic consequences for other States; it therefore hoped that it would be possible to find solutions acceptable to all.

On the other hand, his country found it difficult to protect its interests, and particularly to exercise control over its resources, so long as the problem of archipelagos remained unsolved. The recent incident involving Minerva Reef, which

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lay to the south of Jiji and Tonga and belonged to the latter country and over which a group of Americans claimed to exercise sovereignty in order to establish a so-called republic there, was illustrative of the difficulties facing archipelagic States in general, and Fiji in particular, so long as their sovereignty over the whole of the archipelagic waters was not formally established by the rules of international law.

Another aspect of the law of the sea that was of great concern to Fiji related to fisheries, an area in which it had to compete with foreign fleets engaged in large-scale fishing. Fish was one of the population's main sources of protein. It was therefore important to prevent over-exploitation of the fisheries resources of the waters surrounding the archipelago. Those resources were, of course, renewable, but they were comparatively small; if they became depleted, the foreign fishing fleets could move elsewhere, but local fishermen could not. His country therefore wished to see the establishment of a zone in which it would have preferential, but not exclusive, rights and management powers, so as to prevent over-exploitation. In view of the essentially pelagic nature of those fisheries resources, a simple test of distance, and not of depth, could be used to determine the limits of that zone.

With regard to the protection and preservation of the marine environment, coastal States should have the powers necessary to exercise control over the waters adjacent to their coasts. In view of the important preparatory work being done for the Stockholm Conference on the Human Environment, his delegation felt that the Committee should confine itself in that connexion to formulating broad rules relating to the preservation of the marine environment, which could serve as a basis for the decisions of the Conference and the work of the specialized agencies. Those rules should also be capable of leading to the establishment of internationally agreed standards, applicable both on land and in territorial waters, with which coastal States would be required to comply.

Freedom of scientific research was essential, but in that field, as in others, rules should be formulated so as to enable coastal States to preserve the marine environment. That was a matter in which Fiji and the other countries of the South Pacific had a particular interest, since nuclear tests which might harm the environment were being conducted in the region by other countries.

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The principal question facing the Committee was that of establishing an equitable régime applicable to the sea-bed and ocean floor beyond the limits of national jurisdiction. His delegation fully supported the establishment of such a régime. The ideal course would have been first to determine the limits of national jurisdiction. However, it was important to establish the régime as soon as possible, and, under the circumstances, it was essential to work out the details; the question of the limits of national jurisdiction could be taken up in the course of the discussions relating to the establishment of the régime.

It appeared that the test which should be applied in determining the limits of a country's continental shelf was that of the natural prolongation of the land mass beneath the sea. However, that test would be difficult to apply, since few countries could afford to carry out the necessary surveys. Consequently, it might be preferable simply to use a test based on a distance to be determined from a fixed reference point, e.g. a low-water mark or baseline. His delegation had no strong views regarding the outer limits of the area of national jurisdiction.

The international régime and the machinery associated with it should be adaptable to the circumstances. Its organs should include an assembly which would be open to all States parties to the treaty and in which each would have one vote. There should also be a smaller executive council, and all its decisions on substantial questions should be taken by a two-thirds majority. With regard to the composition of the Council, his country would support representation by interest groups - provided that archipelagic States formed one of those groups - or by geographic regional groups. It would be necessary to establish a secretariat, but there seemed to be no need for an additional management organ. The authority set up by the treaty should be empowered to explore and exploit the area within its jurisdiction. It might be merely a regulatory authority administering that area through the agency of individual States or groups of States; if its revenues justified it, it might take part directly in exploration and exploitation activities on its own account or in joint venture with individual States or groups of States.

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Mr. MHLANGA (Zambia) recalled that his country had already expressed its interest in the Committee's work by sending an observer to an earlier session and would do its best to contribute to the debates. He welcomed the convocation of the Conference on the Law of the Sea, which would formulate principles binding on all States and would determine their rights, with particular regard to the resources of the sea, 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. He hoped that the Conference would arrive at universal, lasting solutions and would thus be able to promote international co-operation. The decision to establish an equitable international régime and international machinery was a timely one. The proposed machinery must have sufficient financial and administrative power to conduct operations or to arrange for them to be carried out on its behalf. That precaution was necessary owing to the differences in available technology between the developed countries and other countries. It was desirable that land-locked countries should be represented in the authority. The limits of the international area should be clearly determined, for most resources were situated near the coast. The right of free access to the high seas was particularly important to his country, which was land-locked and could exercise that right only by transit through certain hostile neighbouring countries. The international community should define that right clearly and ensure that it was upheld. It was also necessary for land-locked countries to have storage, processing and marketing facilities on the coasts of neighbouring coastal States. Achieving the right of free access to the high seas would do much to promote international peace and security and friendly relations among States. Preservation of the marine environment must also be ensured, and to that end, scientific research should be advanced. Any treaty on the subject should include a prohibition against dumping into the environment substances which were likely to have deleterious effects on it.

Mr. FALL (Senegal) said he wished to draw the Committee's attention to some points of disagreement between his Government and the United Nations Secretariat.

(Mr. Fall, Senegal)

On 3 June 1971, his Government had informed the Secretariat that it was denouncing the Convention on the Territorial Sea and the Continguous Zone and the Convention on Fishing and Conservation of the Living Resources of the High Seas. His Government had been of the view that Parties to those Conventions were entitled to denounce them if their national interests so dictated. It had been unable to accept the view expressed by the Director of the United Nations Secretariat's General Legal Division in his reply to the Government of Senegal dated 22 July 1971. According to him, the Conventions were absolutely binding on States while providing them with no means of recourse. He had further maintained that the two Conventions could not be denounced and that the Secretary-General could not, therefore, inform the Contracting Parties that Senegal had given notice of its withdrawal or register it as "a subsequent action which effects a change in the Parties". The Government of Senegal felt that the Secretary-General had exceeded his authority since the depositary of international conventions was not entitled to examine the substance of notifications submitted to it. Even the Vienna Convention on the Law of Treaties, which had not entered into force or been ratified by Senegal, strictly limited the depositary's right of examination to examination of questions of form and did not give it the authority to express its views on the application of its article 56. Furthermore, the Secretariat's refusal to register Senegal's notification was in flagrant violation of the rule concerning the registration of treaties laid down in article 2 of General Assembly resolution 97 (I). The Sixth Committee had made it very clear that treaties would be registered with the Secretariat and not by the Secretariat. The International Law Commission had implied that the depositary was merely a useful mechanism for the transmission of notifications and communications. By setting itself up as a judge, the Secretariat was acting as a judiciary rather than an intermediary body. It would be inadmissible for the Secretariat again to exceed its authority in such a way, and States might not wish to ratify the new Convention on the Law of Treaties if the provisions of its article 77 were infringed before it came into force.

On 5 January 1972, the Secretary-General had finally transmitted the text of Senegal's letter of denunciation and copies of the ensuing correspondence to

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the signatories to and Contracting Parties of the two Conventions in question. The procedure followed by the Secretariat could give rise to some misunderstanding since the recipients of the material transmitted by the Secretariat might infer that there were grounds for reservations as to the legal effects of Senegal's communication. On 3 March 1972, the Senegalese Government had requested clarification but no reply had as yet been received. Furthermore, in application of the final articles of the Geneva Conventions, communications sent out by the Secretary-General in his function as depositary, should be addressed to all States Members of the United Nations and of one of the specialized agencies as well as to any State invited by the General Assembly to become a Party to the Conventions. Many of the States of the third world had gained their independence too late to participate in the conference at which the Conventions had been drafted. Other States had not adhered to the Conventions and it was those which were the most likely to share the view of the Senegalese Government. In October 1971, Senegal had utilized the diplomatic channel to inform all the countries concerned that it was denouncing the two Conventions; however, his Government still felt that the Secretariat should transmit to all the Members of the United Nations the text of the letter from the President of the Republic of Senegal, dated 3 June, and copies of the ensuing correspondence.

Turning to the question of the exploitation of fishery resources, he pointed out that, due to the development and improvement of trawling techniques and the expression of the fishing fleets of the industrialized countries, the amount of fishing done along the African Coast had increased significantly over the previous 10 years. The coastal States were troubled by the situation since no regulations had been established to conserve their fishery resources, which were of great value to them. The activities of the developed countries were such as to threaten the conservation of Africa's fish reserves. Between 1958 and 1968, the number of countries fishing off the African coast had risen from 5 to 17. The African countries were therefore obliged to take steps to conserve their fish reserves, establish equitable international regulations and assure the coastal States of a greater share of their own marine resources. He pointed out that the African Ministers of Foreign Affairs meeting at Addis Ababa had recognized that the law of the sea was a question which called for examination in a new light.

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The territorial waters issue was not wholly identifiable with the problem of the exploitation of the fishery resources of those waters. Some countries did not consider themselves to be bound by the Geneva Conventions of 1958 and had extended their territorial waters well beyond 12 nautical miles. There was a need to draw a distinction between the notion of territorial waters, which was based on military, strategic and political considerations, and the notion of fishery zones, which was basically economic in character and was aimed at giving countries rights over a greater part of the sea with a view to more rational exploitation of fishery resources. In view of the expansion of the international fishing fleet, it was legitimate for the developing countries to consider extending their fishery zones to cover their entire continental shelf at least. In June 1971, the OAU Council of Ministers had adopted a resolution confirming the inalienable rights of the African countries over the fishery resources of the continental shelf surrounding Africa and urging their Governments to take all necessary steps to proceed rapidly to extend their sovereignty over the resources of the high seas adjacent to their territorial waters and up to the limits of their continental shelf. With that resolution in mind, his Government had just decided to establish a fishery zone extending 110 nautical miles beyond the limits of the Senegalese territorial waters, which had in February 1970 been extended to 12 nautical miles to correspond to the limits of the continental shelf.

Mr. AN CHIH-YUAN (China) reminded the Committee that at its preceding plenary meeting the representative of Japan had proclaimed Japan's sovereignty over Tiaoyu and other islands forming part of the territory of China. He had also attacked and slandered China. The Chinese delegation found it necessary to reply.

In the first place, the representative of Japan had accused China of dictating the Sea-Bed Committee's position with regard to Tiaoyu. Such an accusation was inadmissible. The Chinese delegation had already expressed the view that the current struggle with regard to rights over the seas was in essence a struggle between the forces of aggression and resistance, plunder and conservation and hegemony and independence. If the question of rights over the seas was to be settled fairly, in accordance with the interests of the peoples of all countries

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and in conformity with the spirit of the Charter of the United Nations, it was essential to oppose the policies of aggression, plunder and hegemony. The Japanese attempt to incorporate Tiaoyu and other islands into Japan and to plunder the sea-bed in their vicinity was a flagrant act of aggression to which the Chinese Government could not remain indifferent. It was China's intention not only to defend its sovereignty, territorial integrity and underwater resources but also, together with all countries which stood for justice, to oppose the policies of aggression, plunder and hegemony.

Secondly, Tiaoyu and the other islands in question had belonged to China since ancient times. They had been China's under the Ming Dynasty in the fifteenth and sixteenth centuries, and even then they had formed part of the Chinese province of Taiwan rather than of Ryukyu (Okinawa). After the Sino-Japanese War of 1894, they had been stolen by the Japanese Government, which had forced the Government of the Ching Dynasty to sign the unequal "Treaty of Shimonoseki" and to cede to Japan Taiwan and the islands appertaining thereto. The Japanese representative had, in his intervention, gone so far as to base his claim of Japanese sovereignty over Tiaoyu and other islands on incidents such as the one just recounted. His delegation was most indignant at such a claim, which had been couched in language similar to that used by Japanese militarists in the past.

Thirdly, other recent statements by Japanese leaders on the subject of Taiwan should also be remembered. Whatever the subtleties of the language they used, the statements involved were hostile to the Chinese people. The Japanese leaders claimed that sovereignty over Taiwan remained to be determined and they were continuing their plans to create "two Chinas", "one China, one Taiwan" or "one China, two Governments". They were not only trying to include the island of Tiaoyu and other islands in Japanese territory, but they also wanted once more to seize Taiwan, which had been Chinese territory since ancient times. In fact, after the Second World War, Taiwan had been returned to China. If the Japanese Government refused to learn from its defeat, it would come to no good end.

Fourthly, Japanese militarism, given new life thanks to the encouragement of the United States, was a dangerous force of aggression in the region of Asia and the Pacific. The Japanese leaders considered Taiwan, like Korea, to be an

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essential element in Japan's security. They saw South Korea, Taiwan, Indo-China and the whole region stretching as far as the Strait of Malacca as a zone essential to that security and they dreamed of bringing to life again their "Greater East Asia Co-prosperity Sphere".

Mr. OGISO (Japan), speaking on a point of order, requested the Chairman to declare that question beyond the Committee's mandate.

The CHAIRMAN said that the representative of China had the right to exercise his right of reply, but should show moderation in doing so.

Mr. AN CHIH-YUAN (China) said that the hegemony of the super-Powers was now meeting opposition from the overwhelming majority of the peoples of Asia, Africa and Latin America. Serious attention must be given to the designs of the Japanese militarists. The Japanese people were a great people and there was a deep friendship between the Chinese and Japanese peoples. The Chinese people had always supported the Japanese people in their struggle for the complete recovery of Okinawa. China would not, however, allow the United States and Japanese Governments to use the island of Tiaoyu and other islands to sow discord between the Chinese and Japanese peoples. Anyone bent on hostility towards the peoples of China, Japan, Asia and the rest of the world would certainly eat the bitter fruits of their own making.

Mr. INGLES (Philippines) noted that the representative of China had spoken of the Nansiao Islands which were supposedly part of the Chinese province of Taiwan. On instructions from his Government, his delegation wished to express reservations on that point. The Committee was not competent to deal with territorial questions. His delegation's reservations concerned the island that the Philippine Government called Stratly Island, and other islands forming part of the territory of "Freedom Land". That territory was made up of a group of 53 islands which had been under the sovereignty of the Philippine Government since their discovery by a Philippine navigator in 1847. Those islands were also much closer to the Philippines than to the Asian continent, China proper or even Taiwan. They were important for the security of the Philippines; indeed, they had been used during the Second World War as a beachhead by the Japanese forces when they had launched their attack against the Philippines.

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Mr. OGISO (Japan) supported the ruling of the Chair whereby the Committee had no mandate to make decisions on territorial claims. His Government's position was firm: no State other than Japan could validly claim sovereignty over the Senkaku Islands. Furthermore, the return of Okinawa to Japan was the realization of a long-standing wish of the whole Japanese people.

Mr. PHILLIPS (United States of America) said that the Committee must avoid making any judgement on questions outside its terms of reference. Representatives should abstain from making unfortunate or unfounded accusations. The Committee still had a considerable task to accomplish and there were other bodies to deal with political questions.

The meeting rose at 12.30 p.m.

SUMMARY RECORD OF THE SEVENTY-FOURTH MEETING

Held on Tuesday, 21 March 1972, at 10.50 a.m.

Chairman: Mr. AMERASINGHE Ceylon

STATEMENT BY THE SECRETARY-GENERAL OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

Mr. STRONG (Secretary-General of the United Nations Conference on the Human Environment) emphasized the need for continued co-ordination between the Sea-Bed Committee and the preparations for the Stockholm Conference. Co-ordination was essential if the results achieved at Stockholm were to make their best possible contribution to the Conference on the Law of the Sea.

The preparations for Stockholm were well advanced. Just last week the Preparatory Committee had completed its fourth and final session. Intensive sectoral and regional preparatory efforts related to the Conference had also taken place in numerous parts of the world. There was a rising tide of interest in the Conference as well as in the problems of the marine environment with which the Sea-Bed Committee was particularly concerned.

The draft Declaration on the Human Environment which would be discussed at the Stockholm Conference should also be of considerable importance for the work of the Sea-Bed Committee. The Declaration was a first attempt to express common principles which would guide the international community in its effort to protect and enhance the human environment.

The thrust of the Conference was towards practical action: action proposals relating to the marine environment were to be found in the Conference document entitled "Identification and control of pollutants of broad international significance" (A/CONF.48/8). The report covered air pollution, fresh water pollution and food contamination as well as marine pollution. It pointed out that the problem of marine pollution was most severe in estuaries and inshore waters and also in many enclosed and semi-enclosed sea areas which received the bulk of man's wastes. The sources of marine pollution were predominantly land-based, and the pollutants in the near-shore areas were transported there primarily by rivers and by the atmosphere. Concern was mounting with regard to mid-ocean areas which land pollutants reached through atmospheric transfer. There was much yet to be learned of the quantities of substances reaching the marine environment and of the manner of their transport, but perhaps the widest gap in current knowledge had to

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do with the fate of pollutants once they were in the sea and their effects on the marine environment.

In addition to the need for intensified marine research, there was an urgent requirement for monitoring the physical, chemical and biological characteristics of the sea and its living resources. Research and the establishment of monitoring systems were expected to be the outstanding features of the international effort which should follow the Conference. It was also hoped that there would be an international referral system to facilitate exchange of information on research undertaken by Governments and on national control measures. It should be emphasized that steps to control marine pollution could not await the results of complex marine research and painstaking observations, however necessary that might be.

For practical reasons, the documentation on machine pollution contained two basic categories of action proposals: those which dealt with the assessment of the problem and those which would further the control of marine pollution. The reports emphasized that both categories would depend in the first place on national activities. However, the seas, by their very size, and the fact that vast expanses lay beyond the limits of national jurisdiction, demanded international co-operation for their protection and the development of a comprehensive approach which should lead ultimately to better management of the sea and its resources. Such a comprehensive approach should rest on general principles and guidelines for the preservation of the marine environment, such as those suggested by the Inter-Governmental Working Group on Marine Pollution at its Ottawa session (A/CONF.48/IWGMP.II/5).

Various action proposals had been presented on the first subject, assessment of marine pollution. For example, it was proposed that efforts should be concentrated on particularly harmful and persistent pollutants. Research was vital to assessment, and a number of areas had been singled out. Enlarged support was requested, particularly for the Integrated Global Ocean Station System (IGOSS) and the Global Investigation of Pollution in the Marine Environment (GIPME). Those and similar programmes would certainly be of interest to the Committee when it came to discuss the legal norms for scientific research.

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The second category of proposals to be submitted at Stockholm dealt with control. In that connexion, a number of important existing measures and on-going activities were brought to the attention of the Conference. The Conference documentation called for the implementation of existing instruments on the control of maritime sources of marine pollution, for measures to ensure that dumping was brought under control and for an over-all instrument that should be brought into force as soon as possible, along with needed regional agreements. Another recommendation would call on Governments to participate fully in both the IMCO Conference and the Conference on the Law of the Sea with a view to bringing all significant sources of marine pollution under appropriate control. While not neglecting the important work of the Sea-Bed Committee and of IMCO, the Stockholm Conference would forus attention primarily on the problem of land-based sources of pollution, whether or not the effects were felt on the seas. The proposals therefore therefore emphasized that the control of marine pollution required action not only with regard to maritime activities but also with regard to man's activities on the land and that the importance of the latter should be fully recognized by Governments.

Although the control of land-based sources of pollution was a matter for national action, the effectiveness of that action might in many cases be increased by international co-operation. At present it was felt that international co-operation to control pollution might be best served by increased emphasis on regional agreements. But whether action was to be applied on a national, regional or international level, the adoption of international guidelines would be an important element. For example, one of the principles suggested by the Inter-Governmental Working Group on Marine Pollution stated that: "Every state should co-operate with other states and competent international organizations with regard to the elaboration and implementation of the internationally agreed rules, standards and procedures for the prevention of marine pollution on global, regional and national levels". Other principles adopted by the IWGMP stressed the obligations and the rights of States.

It was to be hoped that governments attending the Stockholm Conference would accept and endorse general principles along the lines of those submitted by the IWGMP, and that those would facilitate further work by the Sea-Bed Committee in the formulation of general legal norms and ultimately treaty articles on the

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preservation of the marine environment. At Stockholm Governments would in fact be making an important beginning on a task which they would then pursue further in the work of the Sea-Bed Committee.

The Conference on the Law of the Sea was the logical place where adequate over-all legal provisions for the preservation of the marine environment would find their final form.

In conclusion, he expressed his gratitude for the goodwill and co-operation that had been displayed by the Committee in connexion with the preparatory work for the Conference. He hoped that the Conference would make an important contribution to the success of the Sea-Bed Committee's vital work.

The CHAIRMAN thanked Mr. Strong on behalf of the Committee for his valuable and informative statement. The Sea-Bed Committee took an intense interest in the work of the Stockholm Conference and would carefully consider the implications of the conclusions reached there for its own future work.

Mr. van der ESSEN (Belgium), speaking as Chairman of Sub-Committee III, expressed appreciation to Mr. Strong for his statement and said that Sub-Committee III, which was particularly concerned with the problem of marine pollution and the preservation of the marine environment, eagerly awaited the results of the Stockholm Conference.

In his statement, Mr. Strong had touched on the question of land-based pollutants and their effects on the marine environment. There was some question as to whether Sub-Committee III was empowered under its terms of reference to deal with the question of land-based pollutants, or whether its competence covered only marine pollution in the narrow sense of the term. The members of the Sub-Committee would therefore like to know whether it was intended that the Stockholm Conference should undertake the task of drafting treaty articles governing land-based pollution which ultimately affected the marine environment.

Mr. STRONG (Secretary-General of the United Nations Conference on the Human Environment) said that the Conference secretariat attached very high priority to the important question of land-based sources of marine pollution. The proposals

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to Governments contained in the Conference documentation related primarily to the identification of the principal sources of land-based pollution. It was not specifically proposed that the Conference should attempt to draft a treaty governing land-based pollution of the marine environment; however, much of the work which would be accomplished at Stockholm would provide a basis on which such treaty provisions could be negotiated.

STATEMENT BY THE REPRESENTATIVE OF FAO

Mr. CARROZ (Food and Agriculture Organization of the United Nations) introduced four documents that FAO had prepared pursuant to a request made by the Sea-Bed Committee at its July/August session last year. The first of those documents was an atlas of the living resources of the sea. A first series of maps on the living resources of the sea had been submitted to the Committee at its summer session in 1971 (document A/AC.138/47). At that time a number of delegations had expressed the wish that FAO should additionally provide a world map on zooplankton showing, as far as possible, the location of the resources and, where appropriate, their migrations. They had also indicated that they would welcome additional regional maps. In response to those wishes, FAO had prepared the above-mentioned atlas which had been distributed to delegations under the symbol "FAO Fisheries Circular No. 126-Rev.1".

The Committee had also requested FAO to prepare a number of country profiles providing basic information on the role of fish and the fishing industry in the economy of each country and on the structure of the fishing industry, the possibilities for development and the financial aspects of development. Profiles had accordingly been prepared for some 50 countries so as to ensure a fair geographical representation and to include small countries as well as large, developed countries as well as developing. A folder had been distributed to delegations containing approximately 30 country profiles. The remaining profiles would be circulated within the next few days. FAO deeply appreciated the co-operation extended to it by the countries concerned, which had provided comments

(Mr. Carroz, FAO)

on a first draft of the country profile. The comments had been duly taken into account except in a few cases where they were received too late. All comments, however, would be reflected in subsequent revisions.

Introductory notes to the country profiles had been prepared and distributed under the symbol "FAO Fisheries Circular No. 140". The notes explained the terminology used in the profiles and contained a glossary, with illustrations, of fishing gear terms. The notes also contained a clear disclaimer with regard to information concerning the shelf area to a depth of 200 metres that had been included in the general economic data for each country. That information had been provided solely because it was within that zone that the greater part of the world's commercially exploitable living resources of the sea were to be found. No legal significance whatsoever should be attached to that information, especially with regard to the delimitation of the continental shelf. Finally, should the Committee so desire, FAO would be happy to prepare profiles for countries other than those already covered.

The third document he wished to introduce was the report on regulatory fishery bodies (A/AC.138/64), which described the scope, composition, functions and activities of all intergovernmental commissions whose main function was to ensure the rational management of the living resources of the sea and to formulate conservation measures for submission to member nations. It did not cover regional bodies concerned essentially with the promotion and co-ordination of scientific research, nor did it refer to the numerous bilateral and multilateral agreements and conventions concluded for the purpose of laying down conservation measures without provision being made for the establishment of a standing regulatory body.

The report started with a brief historical review of international co-operation with respect to conservation of the living resources of the sea. It then described the geographical area of competence of individual fishery bodies and discussed the various problems attendant upon the delimitation of such areas. At present, nearly all seas and oceans were covered by one or more regulatory bodies. It should be emphasized, however, that the problem of geographical coverage could not be considered in isolation and that attention must be paid at the same time to the composition of fishery bodies, the scope and nature of their functions, the stocks of fish they were concerned with and their performance.

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(Mr. Carroz; FAO)

Under present rules of international law, participation in the work of regional fishery bodies was entirely voluntary. Nevertheless, the report showed that there was significant evidence of States' willingness to collaborate in the rational exploitation of common resources.

The report examined in some detail the functions and regulatory powers of fishery bodies. Although situations in which conservation measures were directly binding on member countries were exceptional, numerous conservation and management measures had been adopted by fishery bodies and implemented by their member countries. The report divided such measures into those that controlled the size or some other characteristic of the fish caught and those that controlled the total amount of fishing. As the latter measures were likely to be given ever greater attention in the years ahead, the important question of limitation of the total catch and its apportionment among member countries was given special consideration.

Lastly, the report considered the problem of enforcement of conservation measures. The enforcement of any measure adopted by regulatory fishery bodies and accepted by member countries was in the first instance the responsibility of each member country with respect to the vessels flying its flag. A description was given of the international control systems already set out in the conventions establishing several fishery bodies and of the schemes of joint enforcement recently adopted by two bodies in the North Atlantic.

No attempt had been made to provide an assessment of the achievements of fishery bodies; it was hoped, however, that the report provided sufficient factual information to enable delegations to make their own assessment. It was worth noting that the fourth document prepared by FAO at the request of the Committee contained information on the status of certain fish stocks as a result of management action by regulatory bodies.

That document, entitled "Conservation problems with special reference to new technology" (A/AC.138/65), dealt with the general question of rational management of the living resources of the sea, mainly on the high seas, with particular reference to recent developments in fishing technology, gear and equipment. It also outlined the main causes of over-exploitation and indicated where stocks were being depleted or in danger of depletion.

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(Mr. Carroz, FAO)

He drew particular attention to the section entitled "New needs for management", which stated that the effects of new technology on fishery resources did not seem to require a complete change in the present procedures of managing and conserving fish stock. The most pressing need was to strengthen the present regional arrangements for management so that effective action could be taken in time, a view which the Conference of FAO had expressed at its sixteenth session in November 1971. The Conference had also endorsed the views of FAO's Committee on Fisheries that that body could play a valuable role in keeping under review the status of utilization of fishery resources throughout the world, identifying areas where management action was needed, assessing the effectiveness of regulatory bodies and promoting action where required. With that in mind the Conference had recommended that the Committee on Fisheries should review its ability to discharge all the responsibilities it was likely to be called upon to perform, including those that might arise from the forthcoming Conference on the Law of the Sea and the Conference on the Human Environment. The Committee was scheduled to consider that matter at its seventh session in April 1972.

FAO would welcome comments on, and suggestions for the improvement of, the documents prepared in response to the Sea-Bed Committee's request. Moreover, FAO and its Committee on Fisheries were prepared to make further contributions to the work of the Sea-Bed Committee, in accordance with General Assembly resolution 2750 C (XXV).

Mr. PINTO (Ceylon) thanked the Secretary-General of the United Nations Conference on the Human Environment for his most useful statement. His delegation had noted with particular interest the Secretary-General's statement to the effect that it was at the Conference on the Law of the Sea that legal provisions concerning the preservation of the marine environment should find their final form.

Referring to the documents submitted by FAO, he said that Ceylon was a country that had yet to determine some of its lines of policy in regard to ocean fisheries. While its investment in fishing and fisheries continued to increase, its views on international fishing regulation were still in the process of formation. Essentially it had been concerned with the Indian Ocean as the area of its

(Mr. Pinto, Ceylon)

fishing activities and it would wish to ensure that any regional arrangements to which it subscribed kept pace with the development of fisheries technology and continued to serve the best interests of developing countries in the Indian Ocean region.

The report submitted by FAO on regulatory fishery bodies (A/AC.138/64) was a most useful background paper. His delegation had noted that FAO had made no attempt to provide an assessment of the achievements of fisheries bodies but had merely provided sufficient factual information to enable the Committee to reach its own decision concerning their performance. In his introductory statement, however, the representative of FAO had indicated that there was a need to strengthen existing regional management arrangements so as to enable fishery bodies to take effective and timely action and the FAO paper referred to specific deficiencies in regulatory bodies. For example, in paragraph 106 of the document reference was made to the need to supplement national enforcement systems by some form of international policing, especially within the framework of regulatory fishery bodies. That kind of information was most helpful.

His delegation wished to propose that the Committee should request FAO to prepare a supplementary paper on regional fishery bodies indicating, on the basis of its own experience and the experience of regional fishery bodies themselves, ways and means whereby existing fishery management techniques and machinery could be improved and made better able to meet the future needs of members of regional bodies. Ceylon did not, of course, wish to suggest that FAO should make proposals for changes in individual regions; rather it should focus on currently recognized problems in the field and present possible alternative solutions as an aid and stimulus to government initiatives.

Mr. DEBERGH (Belgium) said that at the Committee's last meeting the representative of Senegal had raised a question which was as important as it was delicate. It was delicate because it concerned a formal question beyond the competence of the Committee and to which the Committee would be incapable of giving an answer. It was complex because it related to the law of treaties, not the law of the sea. There was, however, one aspect of the question which did

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(Mr. Debergh, Belgium)

concern the Committee and which, bearing in mind its general mandate, the Committee was competent to deal with.

Although the Geneva Conventions made provision for a procedure whereby they could be revised, no contracting party had even availed itself of the possibility of revising them. The question of the relationship between the 1958 Conventions and the agreements that would result from the 1973 Conference therefore arose. That question was so important that the Committee must examine it very carefully because it, in turn, had a connexion with the law of treaties. It would not be an easy question to answer because even if the 1973 Conference abrogated the 1958 Conventions by replacing them with other Conventions, it was possible that the 1958 Conventions would remain in force for those of their contracting parties which so wished. Even if it was declared that the 1958 Conventions had lapsed it would be unthinkable that the rules of customary law embodied in them should ipso facto be declared null and void.

The general debate had enhanced his delegation's realization of the fact that matters relating to the law of the sea were extremely intricate and interrelated and that the question of a régime for the extra-jurisdictional sea-bed could not be tackled in ignorance of the more general context. As a result of the general debate, his delegation was more aware than it had been of the various interests involved in the matter and of the need to ensure that the interests of the international community were not overlooked. It also had a better understanding of the fact that the existing law was incomplete in the sense that it did not contain provisions regulating the new uses of the sea and relied excessively on the jurisdiction of either the coastal or the flag State, which was partial. It was interesting to note, in that connexion, that the former Chairman of Sub-Committee I had suggested, at the University of Rhode Island's Institute of the Law of the Sea, that if the second Law of the Sea Conference had been able to consider all the laws relating to the various uses of the sea it might have achieved better results. The third Law of the Sea Conference, he had added, need not make the same limitation. Those were pertinent thoughts, and the General Assembly had perhaps been wise to recognize, in resolution 2750 C, that the problems facing the Committee were closely interrelated and should be examined in the light of political and economic realities and scientific developments and

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(Mr. Debergh, Belgium)

technological advances which had accentuated the need for progressive development of the law of the sea in a framework of close international co-operation. The question arose, however, whether all the logical consequences of the principle of the simultaneous and global negotiation of questions relating to the law of the sea had been drawn. It would seem, indeed, that only one delegation, that of Malta, had taken action consistent with such a method of dealing with the problem, and its draft ocean space treaty (A/AC.138/53) represented a praiseworthy attempt to tackle questions relating to the law of the sea from the point of view of the interests of the international community. It must be remembered, however, that international relations were still governed by nineteenth century concepts of State sovereignty which made no provision for the idea of an international community regulating the peace, security and economic well-being of nations by means of organs independent of the will of States. It was to be feared, therefore, that the Maltese draft might be premature. In the same way as the 1958 Conventions had perhaps codified the past, the Maltese draft was perhaps the codification of the future, but it was unlikely that the international community as currently constituted was yet sufficiently adult to accept it fully. In the circumstances, it did not seem to meet current needs; nevertheless, an effort should be made to preserve its basic idea, namely, the overriding interest of the international community.

It seemed, further, that not even the Maltese draft carried to its logical conclusion the reasoning essential to its premise, for after advancing the notion of an extensive territorial sea it provided for exceptions to meet functional imperatives. It was indeed questionable whether it would be possible to stem the rising tide of unilateral national claims by conceding the most extreme limit yet demanded. The 200 mile limit would include almost all the biological and mineral resources of the sea, but new pretexts would be found for claiming limits beyond 200 miles, such as the existence of a hitherto unknown biological or mineral wealth or the possession of an island or two out to sea.

The other proposals submitted to the Committee departed considerably from the premise of global negotiation, for they attached excessive importance to the principle of compensation. According to that principle, coastal States should be compensated for natural disadvantages. The International Court of Justice had considered that argument and concluded that it could only be accepted in very

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(Mr. Debergh, Belgium)

exceptional cases. Indeed, reference to the Court's ruling on the North Sea Continental Shelf Cases showed that in the Court's opinion equity did not necessarily imply equality and that within the framework of the régime of the continental shelf, equity, as a corrective principle, only applied within the same plane, for instance, in a given geographical situation of quasi-equality but it could not refashion geography in an actual and non-comparable natural situation. The danger of disregarding that conclusion had been amply demonstrated. It had been in order to give theoretical satisfaction to the Latin American countries that, just before 1958, the extendable limit of the shelf had been invented. The Latin American countries had derived no advantage from the extension, which was the main source of all the difficulties impeding normal development of the law of the sea. Indeed, if equity could be used only exceptionally as a corrective within a given régime (for instance, the régime of the continental shelf), it was even more illogical to expect it to correct fortuitous inequalities within a given régime, (for instance, the continental shelf) by offsetting them within another régime (for instance, fisheries).

Belgium carried its rejection of the principle of compensation to its logical conclusion. It did not, for instance, claim compensation for the fact that it had a very small and practically unexploitable continental shelf. Belgium did, however, recognize the special interests of coastal States in such matters as fishing, the conservation of the biological resources of the sea and pollution control. It considered, however, that those activities should be regulated in a functional manner and that the adjustments necessary to protect the interests of coastal States should be achieved by means of international organization. In that connexion, Belgium endorsed the views expressed by the representative of the Netherlands at the thirteenth meeting of Sub-Committee I (A/AC.138/SC.I/SR.13) and the fourteenth meeting of Sub-Committee II (A/AC/138/SC.II/SR.14). In principle, it also agreed with the representative of Ethiopia who, at the eleventh meeting of Sub-Committee II (A/AC.138/SC.II/SR.11) had said that the fact that States agreed on a limit of 12 nautical miles would not mean that they were renouncing the protection of vital economic interests beyond that limit, and with the representative of Bulgaria who, at the seventh meeting of Sub-Committee II (A/AC.138/SC.II/SR.7) had said that neither fishing nor conservation of the marine environment should be monopolized through extension of the territorial sea. That

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(Mr. Debergh, Belgium)

did not mean that Belgium rejected the idea of areas of special jurisdiction, or even of preferential or exclusive fishing, provided their limits were established on the basis of reasonable criteria, bearing in mind the reasonable traditional interests of other States, and that the partial jurisdiction of the flag State was not merely replaced by the jurisdiction, which was also partial, of the coastal State. That called for the impartial technology of the international organization. That did not necessarily exclude the idea of a transitional zone, provided that the coastal State and the international community exercised joint responsibilities in that zone. It was, again only within the framework of an international organization that the principles of delegation of power to the coastal State could be accepted, for without that safeguard, all limits would quickly be exceeded, as, for instance, in the case of the head of a coastal State which only infrequently took conservation or anti-pollution measures labelling the exploitation of another State "over-exploitation" and calling "pollution" only the pollution caused by the other State.

It would be seen, therefore, that his delegation favoured a functional and organizational approach to the question of the law of the sea. That implied fidelity to proved concepts and the preparation of new concepts to cover the new uses of the marine environment. His delegation pleaded, therefore, for the maintenance of some traditional notions. It should be noted, in that connexion, that there seemed to be a regrettable confusion in terminology. To judge by certain statements, for instance, the high seas would now begin only at the outer limit of the continental shelf; coastal States would have full sovereignty over its continental shelf; and the territorial sea would extend over the whole distance necessary for the protection of the most hypothetical interests of coastal States. There was however one State which was required by its Constitution to exercise its sovereignty over the seas adjacent to its coasts "in accordance with international law". When that State had been invited to join other States which had proclaimed exclusive jurisdiction over adjacent seas to a limit of 200 miles, its supreme executive body had felt it necessary to veto a legislative measure adopted to that end, which in its opinion was contrary to international law.

It had been claimed that there was nothing in international law to limit the right of a coastal State to extend its territorial waters beyond 12 nautical miles.

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(Mr. Debergh, Belgium)

However, article 24 of the Convention on the Territorial Sea and the Contiguous Zone, which had been ratified by 41 countries, did limit that right to 12 miles, while at least 50 other States respected that rule, even if they claimed areas of special or exclusive jurisdiction beyond that limit.

The objections had had advanced to the theory of compensation were in no way connected with the preferential treatment to be accorded to developing countries in matters relating to the law of the sea. The economic and social inequalities suffered by those countries were not attributable to their geographical situation vis-a-vis the sea. In the opinion of his delegation, however, the new law of the sea should remedy, not aggravate, those inequalities. The developing countries were faced with a difficult choice. It seemed that the seas of the northern hemisphere, on which most advanced countries were situated, were well supplied with mineral and biological resources. In the long run, therefore, a generalized régime of extended national jurisdiction would benefit the advanced countries, for in matters of sovereignty and jurisdiction one State could not deny another what it claimed for itself. That was another reason why his delegation favoured an institutional régime with wide and strong powers.

Mr. VELLA (Malta) said that his delegation would reply at a later stage to the questions raised by the representative of Belgium. It was grateful for the constructive remarks he had made concerning the Maltese draft ocean treaty and, in particular, welcomed his recognition of the draft's forward-looking approach. The document was an attempt to balance national and international interests.

Mr. ZEGERS (Chile) expressed his delegation's appreciation to FAO for having prepared the documents introduced earlier, particularly the atlas of the living resources of the sea. Those documents would prove very useful to the Sea-Bed Committee, as would the discussions to take place at the forthcoming meeting of the FAO Committee on Fisheries.

In his very important statement the Secretary-General of the United Nations Conference on the Human Environment had reaffirmed that it was the Committee's task to elaborate juridical provisions concerning marine pollution in preparation for the Conference on the Law of the Sea, which should finalize them. He agreed with the Secretary-General that the Sea-Bed Committee should present its views to the Stockholm Conference on the draft Declaration on the Human Environment.

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(Mr. Zegers, Chile)

He had listened with considerable interest to the remarks of the Belgian representative, in particular those relating to the Latin American contribution to the law of the sea and the concept of the continental shelf. He would comment further on the Belgian interpretation of the Latin American position at a future meeting.

Mr. FALL (Senegal) said that he had indicated at the preceding meeting that he was drawing the Committee's attention to some points of disagreement between his Government and the Secretariat because the conflict was related to the question of the resources of the continental shelf of Senegal.

In his argument, the representative of Belgium had failed to draw attention to article 2 of the Convention on the Continental Shelf, which stipulated that the coastal State exercised over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources. He did not understand the Belgian representative's definition of the international community and its role in matters relating to the sea-bed. In any event, it was clear that the Belgian and Senegalese positions were opposed. A number of very important questions raised by the Belgian representative should be discussed in Sub-Committee II

Mr. CASTAÑEDA (Mexico) rejected the implication that the Latin American countries could not benefit from an extension of the 200-metre limit because they lacked the technical capacity to conduct exploitation operations below that depth. The matter was one affecting all countries equally.

Mr. DEBERGH (Belgium) said it was indeed true that no State had been in a position to carry out exploitation operations at a depth below 200 metres. The problem was that some States had invoked the criterion of exploitability in order to justify claims which went almost as far as the chasms in the ocean floor and had thus deprived the idea of "adjacent waters" of all meaning.

The meeting rose at 12.35 p.m.

SUMMARY RECORD OF THE SEVENTY-FIFTH MEETING

Held on Thursday, 23 March 1972, at 3.20 p.m.

Chairman: Mr. AMERASINGHE Ceylon

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STATEMENT BY THE SECRETARY-GENERAL

The SECRETARY-GENERAL pointed out that the task with which the Committee was faced was of the greatest importance to the world community and to future generations. It was to create a new order which would also provide a new framework for international co-operation and a new modus operandi among States. New vistas were being opened up for international institutions, which would have to conform with the new demands of the remaining part of the century. The new order would have to match the strides made in science and technology and, at the same time, reflect the political and economic realities of the modern world.

The Committee's task was immense. Some felt that its progress was too slow, but such an undertaking could not give instant results. Interests which were at variance had to be reconciled, and a firm common ground established. The Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction was one of the first successes achieved towards that goal.

There were many who doubted, and with justification, whether the existing body of law was adequate to meet the needs of the modern age. Many felt that new norms of law and conduct must be formulated before the international community could realize the full potential of the oceans under equitable conditions. The new laws should equally protect the marine environment from degradation.

He wished to touch briefly on a few themes which were at the heart of the Committee's concern.

The population of the world would have doubled by the year 2000; it would have to be fed, and better fed than at present. As industrialization expanded, the demand for new materials would increase at an exponential rate, and already fears had been expressed that the world might be overreaching itself. Rational management of the earth's resources was therefore imperative. There were limits to the exploitation of land-based resources, and many of them were not renewable. For that reason, mankind was increasingly turning to the sea for new sources of food, fuel and minerals, and even for additional space. By means of new technologies, man would be able to harvest considerable quantities of minerals such as copper, nickel, cobalt and manganese, which had the remarkable property of renewing themselves on the ocean floor more rapidly than they could be exploited. In areas

(The Secretary-General)

where continental plates drifted apart, hot muds and brines welled up from the interior of the earth; scientists were currently at work on devising processes for extracting their mineral wealth.

If those new resources were wisely managed, the gloomy prospects proclaimed in some quarters would be pushed back. However, it was imperative that those resources, which were the common heritage of mankind, should be placed at the disposal of the world community as a whole, bearing in mind the special needs of the less favoured countries. All countries, whether coastal or land-locked, must be able to share equitably in the benefits obtained and take part in all activities leading to that end. That would require a tremendous effort for the wide dissemination of scientific and technological expertise to enable all countries to make better use of the riches both within and beyond the area of their jurisdiction.

The marine environment must also be preserved. An accident anywhere on the planet could have large repercussions. That was particularly true of the oceans, since they constituted a physical and chemical whole, which must be protected by the international community and by each of its members.

The Committee was engaged in laying down ground rules for the rational management of ocean space. It was in that light that he looked upon the preparatory work for the Conference on the Law of the Sea. However, the new order for the seas would function efficiently only under conditions of peace, and on condition that military competition finally disappeared from the area concerned. He hoped that the Conference on the Law of the Sea which would create the new order would have a beneficial effect on the development of harmonious relations among States. A first step in that direction had already been taken in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed.

The drafting of treaty articles, the essential part of the Committee's work, was necessarily slow and painstaking. Obviously, many countries needed to make a careful study of the complex problems involved, before they could take a clear-cut position. However, that preparatory process should at the same time make it possible to find solutions which would bridge existing differences and lead to a successful Conference on the Law of the Sea.

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(The Secretary-General)

In conclusion, he was glad to know that the entire family of the United Nations was supporting the Committee's work; he was confident that the latter would achieve the desired results.

ORGANIZATION OF WORK (continued)

The CHAIRMAN said that, since the Committee was essentially a preparatory committee for the Conference on the Law of the Sea, it would be sufficient for it to submit to the General Assembly a report on the work of its two sessions.

Nevertheless, if Sub-Committee II reached agreement on a list of subjects and issues relating to the law of the sea, it should submit a report on that matter to the plenary Committee for formal adoption.

If there was no objection, he would take it that the Committee agreed to those suggestions.

It was so decided.

The CHAIRMAN suggested that the Committee's session should be closed on Thursday, 30 March, since Friday, 31 March was Good Friday.

Mr. GUERREIRO (Brazil) and Mr. AL-QAYSI (Iraq) supported that suggestion.

It was so decided.

The CHAIRMAN recalled that in resolution 2750 C (XXV) the General Assembly had decided to convene in 1973 a conference on the law of the sea, on the understanding that if, at its twenty-seventh session, it determined the progress of the preparatory work of the Committee to be insufficient, it might decide to postpone the Conference. Provision for that possibility should be made in the budget estimates for 1973.

For the time being, the Secretariat should earmark funds for a five-week session in the spring and an eight-week session in the summer. The question of venue need not be raised at the present stage.

If there was no objection, he would take it that the Committee agreed to that suggestion.

It was so decided.

Mr. PARDO (Malta) referred to the terms of reference of the forthcoming Conference on the Law of the Sea as defined in resolution 2750 C (XXV), paragraph 2. Since the Committee was to prepare for the Conference, he proposed that it should proceed to discuss the questions referred to in the resolution, and said that his delegation intended to speak on that subject at the next meeting.

Mr. ZEGERS (Chile) supported the proposal of the representative of Malta.

The CHAIRMAN said that the Committee would study the question and take a decision on the subject.

QUESTION OF THE DENUNCIATION OF TWO CONVENTIONS BY SENEGAL

Mr. STAVROPOULOS (Legal Counsel) recalled that at the Committee's 73rd meeting (A/AC.138/SR.73) the representative of Senegal had referred to differences of opinion between his Government and the United Nations Secretariat in regard to the notification by Senegal of its denunciation of the Convention on the Territorial Sea and the Contiguous Zone and the Convention on Fishing and Conservation of the Living Resources of the High Seas.

The representative of Senegal had in effect raised three purely legal issues which concerned the law of treaties rather than the law of the sea. They could be characterized as follows. First, had a State the right to denounce unilaterally the Conventions concerned, which contained no provision for denunciation? Secondly, had an international organization which was the depositary of a multilateral convention the responsibility of examining whether an instrument was in conformity with the provisions of the convention in question and, if need be, of bringing the matter to the attention of the State in question? Thirdly, could the Secretariat, acting in accordance with the regulations established by the General Assembly register a subsequent action - in the present case a denunciation - if it was not certain that the action effected a change in the status of the parties? Obviously, those questions did not come within the mandate of the Committee, and could not usefully be discussed in it. Nevertheless, some explanation was necessary. First of all, the correspondence concerning the

(Mr. Stavropoulos)

matter had been circulated to all States Members of the United Nations or members of the specialized agencies. Senegal had therefore suffered no prejudice in that respect. Secondly, the Secretariat would reply shortly to the latest letter from Senegal, dated 3 March 1972, and, in accordance with Senegal's request, would circulate to all States Members of the United Nations or members of the specialized agencies the text of the letter and of the reply. Moreover, the Secretariat staff who assisted the Secretary-General in his functions of depositary and effected registrations had never sought to establish themselves in the role of judges, nor did they believe that they were infallible. It was for the parties to determine whether the depositary should accept in deposit the denunciation by Senegal of the Conventions in question. As for registration, the Secretariat would be obliged if the Government of Senegal would bring that matter before the General Assembly at its next session, since it was the Assembly which had the authority to instruct the Secretariat on how to discharge the responsibilities of registration in such cases. Alternatively, the Secretary-General might himself bring the matter before the General Assembly in order for it to clarify the issue.

It was regrettable that a difference had arisen on the subject between the Government of Senegal and the Secretariat, and that the latter could have been thought to have acted discourteously, particularly since the Secretariat had always had extremely good relations with Senegal.

Mr. FALL (Senegal) explained that Senegal would not need to bring the matter before the next session of the General Assembly, since it had already been settled by the Sixth Committee. Indeed, in his earlier statement he had quoted the text drawn up by that Committee relating to the registration of treaties. The Secretary-General could bring the matter before the General Assembly if he wished. Where the substance of the matter was concerned, Senegal would await receipt of the Secretariat's reply to its letter of 3 March.

The meeting rose at 4 p.m.

SUMMARY RECORD OF THE SEVENTY-SIXTH MEETING

Held at Headquarters, New York,
on Thursday, 30 March 1972, at 3.45 p.m.

Chairman: Mr. AMERASINGHE Ceylon

DRAFT DECISION

Mr. KHANACHET (Kuwait) recalled that in his statement of 16 March in Sub-Committee I he had said that the developing countries would appreciate receiving assurances from the States that already engaged in activities in the sea-bed area that, in conformity with the provisions of General Assembly resolution 2574 D (XXIV) and of the Declaration of Principles, there would be no commercial exploitation of the resources of the area before the establishment of the international régime. Since no such assurances had been given, it seemed necessary to call upon those States to cease their activities, and he read out the draft decision contained in document A/AC.138/L.11.

Mr. ZEGERS (Chile), Mr. RANGANATHAN (India), Mr. PINTO (Ceylon), Mr. ARIAS-SCHREIBER (Peru), Mr. ENGO (Cameroon), Mr. AN (China) and Mr. SHITTA-BEY (Nigeria) supported the draft decision.

Mr. NJENGA (Kenya), Mr. AL QAYSI (Iraq), Mr. HACHEME (Mauritania), Mr. BENSMAIL (Algeria), Mr. AL HADDAD (Yemen), Mr. MAHMOOD (Pakistan) and Mr. SASSI (Libyan Arab Republic) announced that their delegations joined in sponsoring the draft decision.

The CHAIRMAN said that if there was no objection, he would take it that the Committee decided to consider the draft decision at its next session.

It was so decided.

REPORTS OF THE SUB-COMMITTEE CHAIRMEN

Report of the Chairman of Sub-Committee I

Mr. ENGO (Cameroon), Chairman of Sub-Committee I, recalled that Sub-Committee I had adopted as its programme of work a document proposed by Australia and Jamaica during the last Geneva session. The Sub-Committee had held very useful discussions on item 1 (the question of the régime) and had unanimously decided to set up a Working Group with the task of drawing up a working paper showing areas of agreement and disagreement. The Working Group, consisting of 33 members, had already held two meetings and had elected Mr. Pinto (Ceylon) as its Chairman.

The Sub-Committee had also taken up item 2 of its agenda, to which it would devote four more meetings at the beginning of the Geneva session.

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The CHAIRMAN thanked the Chairman of Sub-Committee I and said that the Committee took note of his letter dated 29 March 1972 (A/AC.138/SC.I/L.11).

In reply to a question by Mr. ZEGERS (Chile), who said that his delegation would oppose any proposal for such a study, the CHAIRMAN recalled that the representatives of Singapore and Afghanistan had asked in Sub-Committee I whether the Secretariat might consider a study devoted to the economic aspects of various proposals on the question of limits. Some objections had been raised, and the representative of Australia had suggested, as a compromise, that the Secretariat should examine the problems that the preparation of such a report would involve. The representative of the United States of America had offered to supply information on that point. In addition, the representative of the Secretary-General said that the Secretariat could distribute the information it received from delegations.

After a debate in which several speakers took part, the CHAIRMAN expressed the view that any request for the preparation of a report by the Secretariat should emanate from the Committee itself. In any event, no proposal had been submitted to the Committee, and there was therefore no reason to prolong the discussion. Obviously, if a delegation wished to submit important information, it should not hesitate to make it available to the members of the Committee.

Report of the Chairman of Sub-Committee II

Mr. GALINDO POHL (El Salvador), Chairman of Sub-Committee II, said that the programme of work adopted at the previous session had been resumed, so as to avoid any delay.

The Sub-Committee had held several meetings, during which it had heard the statements of various delegations on substantive questions. At the same time, in conformity with a decision taken at the beginning of the session, informal consultations had been held between the African, Asian and Latin American groups with regard to the list of subjects and issues relating to the law of the sea to be submitted to the third Conference on the Law of the Sea. The list that had been submitted following those consultations (A/AC.138/66) had subsequently been considered at a meeting and had also been the subject of consultations

(Mr. Galindo Pohl, El Salvador)

between various groups. Unfortunately, those consultations had produced no result, and therefore he regretfully informed the Committee that Sub-Committee II had been unable to achieve its assigned objective of preparing a definitive list.

Mr. FALL (Senegal) expressed regret that the Sub-Committee had been unable to reach agreement concerning the list, which was to serve as a basis for the Committee's work and without which no progress could be made. It appeared that balloting was now being rejected and that only decisions by consensus would be admitted; furthermore, some delegations held that consensus was equivalent to unanimity, whereas it actually meant merely a large majority. In the specific case of the list, such a majority existed, and the few countries that disagreed could always submit amendments.

At present the standards in force with regard to the law of the sea were those established by the Geneva Conventions of 1958. Many of the States members of the Committee had not taken part in the preparation of those provisions since they had not yet become independent; half of those that had participated had not ratified the Conventions. It therefore became urgent to take steps to establish a new régime with regard to the law of the sea if anarchy was to be avoided. For that reason, he appealed to all countries that had not yet done so to agree to transmit the list as it stood to the next session at Geneva.

Mr. HACHEME (Mauritania) and Mr. DRISS (Tunisia) endorsed the views of the representative of Senegal.

The CHAIRMAN said that it would be difficult for the Committee to take a decision on a question that it had entrusted to one of its Sub-Committees.

Mr. FALL (Senegal) believed that, on the contrary, the Committee had the sovereign right to decide. It was the Committee, not its Sub-Committees, that was mentioned in paragraph 6 of resolution 2750 C (XXV). If one of its Sub-Committees was unable to reach a decision, the Committee could take the decision in its stead.

The CHAIRMAN remarked that the Committee could hardly take a decision without prior debate and that there was no time left for such debate.

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Mr. HOVEYDA (Iran) said that he understood and shared the Senegalese representative's point of view. He emphasized that the list would be submitted at the next session in any case, since it had been published as an official Committee document.

Mr. SHITTA-BEY (Nigeria) endorsed the Senegalese representative's opinion with regard to the respective competences of the Committee and its Sub-Committees. It would be desirable, however, to give Sub-Committee II another opportunity to reach agreement on a list, with the understanding that, as a last resort, a decision could always be taken by the Committee.

Mr. POLLARD (Guyana) proposed that informal consultations, which could be under the direction of the Chairman of the Committee, should be held during the intersessional period. If the consultations were successful, the Committee could have an agreed list available at the beginning of its next session's work.

Mr. NANDAN (Fiji) supported the proposal of the representative of Guyana.

Mr. YANGO (Philippines) informed the Committee of certain recent developments in the negotiations, of which the Chairman of Sub-Committee II could not be apprised for lack of time. The group of sponsors of the draft list (A/AC.138/66) had that morning held a meeting during which the proposal of Guyana had been discussed. It was not true, as had been alleged, that the group had employed delaying tactics. A time-limit proposed for the submission of amendments had not been accepted. In the short time available it had not been able to consider the amendments submitted. Accordingly, in order to accelerate the progress of work during the summer session, the sponsors had suggested that the time-limit for the submission of amendments should be the third day of the summer session at 6 p.m. In the meantime, the amendments would be discussed in informal consultations between the sponsors and the other groups. The proposal made by Guyana was therefore in harmony with the views of the sponsors. However, since some sponsors had not attended the morning meeting, the full membership of the group would have to meet before consultations could proceed at Headquarters.

Mr. BEASLEY (Canada) acknowledged that drawing up the list of subjects and issues had posed certain problems, since the sponsors had had to deal with

(Mr. Beasley, Canada)

contradictory amendments, and the proposed list had not been available to the other representatives for consideration until the very end of the session. There appeared to be disagreement on only three or four major problems. Consultations would have to be pursued in the interval between the present session and the forthcoming session at Geneva. His delegation was not opposed to the idea of a time-limit for the submission of amendments but would like to suggest that the matter should be settled at the beginning of the summer session. In the meantime, consultations could be held under the leadership of the Chairman of the plenary Committee.

Mr. ENGO (Cameroon) expressed the hope that the Chairman would agree to preside over consultations during the intersessional period. During that period no time-limit should be set for the submission of amendments. If agreement had not been reached before the opening of the Geneva session, a decision could be taken on the proposed amendments during the first two or three days, in accordance with established United Nations procedure.

Mr. ALCIVAR (Ecuador) said that he was not opposed to holding informal consultations between now and the summer session but stressed that agreement could be reached officially only at Geneva, when all delegations would be present.

Mr. THOMPSON-FLORES (Brazil) said that he favoured accepting the procedure proposed by the representative of the Philippines but felt that the Chairman of Sub-Committee II should continue to preside over the consultations.

Mr. GALINDO POHL (El Salvador) said that he would not be equal to that task, as he was frequently required to travel and had many other obligations.

Mr. STANGHOLM (Norway), supported by Mr. CHAO (Singapore), asked the Chairman of the Committee to consent to preside over the consultations.

The CHAIRMAN said he would take a decision on that matter in consultation with the Chairman of Sub-Committee II.

Report of the Chairman of Sub-Committee III

Mr. Van der ESSEN (Belgium), Chairman of Sub-Committee III read out the text of a letter which he had addressed to the Chairman of the plenary Committee.

(Mr. Van der Essen, Belgium)

The letter recalled that Mr. Strong, Secretary-General of the United Nations Conference on the Human Environment, had stated that there should be continued co-ordination between the work of the Committee and the preparations for the Stockholm Conference, which would begin a task that the Sea-Bed Committee would then pursue further. The Conference on the Law of the Sea would give final form to the legal provisions concerning the preservation of the marine environment. To deal with its programme of work, Sub-Committee III had had to hold only five meetings, in the course of which it had heard technical statements by Mr. Baum, representative of the Secretary-General, and by representatives of IOC, IMCO, FAO and WHO. The substantive questions raised by a number of delegations had contributed to a better understanding of the problems at hand. The Sub-Committee had adopted a very detailed programme of work, based on a proposal by the representative of Canada which had been issued as document A/AC.138/SC.III/L.14. Since Sub-Committee III regarded itself as the body competent to prepare draft treaty articles concerning the preservation of the marine environment and the prevention of marine pollution, it must establish contact with the Stockholm Conference. To that end, he proposed to transmit to the Secretary-General of the Conference the summary records of the meetings of Sub-Committee III in March and July 1971 and in March 1972.

Mr. ZEGERS (Chile) proposed that the letter of the Chairman of Sub-Committee III should be attached to the summary records which would be transmitted to Stockholm.

It was so decided.

The CHAIRMAN said that despite lack of agreement on certain specific questions, the discussions which had taken place should assist the Committee in arriving at decisions. The forthcoming session would be of vital importance, since the Committee would have to draft its report to the twenty-seventh session of the General Assembly; the convening in 1973 of a conference on the law of the sea would depend in large measure on what progress the Committee had made by that time. The Chairman declared the session closed.

The meeting rose at 6.20 p.m.