United Nations Source Documents on

The Third U.N. Law of the Sea Conference:

CARACAS '74 (LOS-3)

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Compiled by the Editors

of

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Editor's Note

The documents contained in this volume are in all cases reproductions of the originals -- as delivered in Caracas the summer of 1974; made available in New York City by the U.N.; or gathered together from various sources by the reporters and editors of Ocean Science News.

No attempt has been made to edit the documents, merely to shorten them where the repetition is obvious.

This volume is a companion to United Nations Source Documents on Seabed Mining, also published by Nautilus Press.

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UNITED NATIONS

Press Section
Office of Public Information
United Nations, N.Y.

(FOR USE OF INFORMATION MEDIA -- NOT AN OFFICIAL RECORD)

Background Release

Press Release SEA/18
28 May 1974

THIRD UNITED NATIONS CONFERENCE ON LAW OF SEA TO MEET AT CARACAS, 20 JUNE-29 AUGUST

Goal is to Adopt Comprehensive Convention and Set Up Machinery To Regulate International Sea-Bed Area

Nearly 150 nations have been invited to gather in June at Caracas in an effort to write a new set of binding international rules governing human activities in the two thirds of the earth's area covered by oceans.

The Third United Nations Conference on the Law of the Sea, meeting in the Venezuelan capital for 10 weeks from 20 June to 29 August, has been convened by the United Nations General Assembly "to adopt a convention dealing with all matters relating to the law of the sea".

As part of this task, the Conference will seek to create a body of rules and an international machinery governing the area and resources of the vast reaches of ocean bottom that lie beyond the jurisdiction of any State. The aim will be to write laws acceptable to all nations for the once impenetrable ocean depths that have been called the last frontier of man on earth -- a vast storehouse of minerals and energy that humanity is quickly learning how to exploit.

The subjects for the Conference were set out by the General Assembly in 1970, in resolution 2750 C (XXV). They are, in the words of the resolution:

-- The establishment of an equitable international regime -- 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;

-- A precise definition of the area;

-- A broad range of related issues including those concerning:

  -- The regimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone;

(more)

-- Fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States);

-- The preservation of the marine environment (including the prevention of pollution);

-- Scientific research.

In deciding last November that the mandate of the Conference should be to adopt a convention dealing with all matters relating to the law of the sea, the Assembly asked the Conference to bear in mind "that the problems of ocean space are closely interrelated and need to be considered as a whole".

Five years of preparatory work have gone into this Conference, beginning with studies on an international regime for the sea-bed and later expanding into all of the other highly complex and interrelated aspects of sea law. Hundreds of draft treaty articles, submitted by dozens of States, have been sifted by a preparatory body set up by the General Assembly in 1968 -- the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

One of the main documents before the Conference will be the six-volume, 1,060-page report of the Sea-Bed Committee on its 13 weeks of meetings at New York and Geneva last year. The report sets out the Committee's attempts to consolidate these proposals into draft articles -- mostly in several alternative versions for each article -- on which the Conference can base its work.

The Conference held an organizational session at United Nations Headquarters from 3 to 15 December, at which it elected its officers, decided on its committee structure and began discussing its draft rules of procedure. H. Shirley Amerasinghe (Sri Lanka), who was Chairman of the Sea-Bed Committee from 1969 until it was dissolved last December, was unanimously elected President of the Conference.

Most of the substantive work of the Conference is to be carried on in three main committees of the entire membership. According to present plans which await formal approval by the Conference, Committee I will deal with the international regime and machinery for the sea-bed, Committee II with other aspects of the law of the sea, and Committee III with preservation of the marine environment and scientific research.

(The officers of the Conference and its committees are listed at the end of this release.)

Foreseeing that still more work might be needed after the Caracas session, the Assembly decided last November, "if necessary, to convene not later than 1975 any subsequent session or sessions as may be decided upon by the Conference and approved by the General Assembly" [resolution 3067 (XXVIII)]. The Government of Vienna, as noted in the Assembly resolution, has offered Vienna as the site for the Conference in 1975.

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Earlier Conferences on Sea Law

The first United Nations Conference on the Law of the Sea met at Geneva in 1958, with 86 States participating, and produced four international conventions. They cover the territorial sea and contiguous zone, the high seas, fishing and conservation of the living resources of the high seas, and the continental shelf. There is also an Optional Protocol of Signature concerning the Compulsory Settlement of Disputes.

The Convention on the Territorial Sea and Contiguous Zone provides that the sovereignty of a State extends over its territorial sea. It includes rules for determining the baseline from which the territorial sea is measured, but does not specify the width of this zone. It also deals with the jurisdiction of the coastal State over the zone contiguous to the territorial sea. (46 States are parties; in force since 1964.)

The Convention on the High Seas provides for freedom of the high seas and deals with specific problems, including the nationality of ships, piracy, pollution and submarine cables. (54 parties; in force since 1962.)

The Convention on Fishing and Conservation of the Living Resources of the High Seas contains a general obligation to adopt conservation measures when necessary, supplemented by other specific obligations. (35 parties; in force since 1966.)

The Convention on the Continental Shelf gives coastal States exclusive rights to exploitation of the mineral and other non-living resources of the continental shelf, but specifies that those rights shall not affect the high seas lying above the shelf. (53 parties; in force since 1964.)

The Optional Protocol of Signature concerning the Compulsory Settlement of Disputes provides for resort to arbitration, conciliation or the International Court of Justice to settle disputes over the interpretation of any of the Conventions on the Law of the Sea. (34 parties; in force since 1962.)

A second Conference was called by the General Assembly in Geneva in 1960 to seek to resolve disagreements over the breadth of the territorial sea and fishery limits. However, the 82 States represented were unable to adopt any substantive proposal on these matters.

Sea-Bed Committees Established

It was not until 1967 that legal questions involving the sea were again the subject of an Assembly resolution. At that time the Assembly created the first Committee on the sea-bed, a 35-member ad hoc body which was replaced the following year by the Committee that later became the preparatory body for the Law of the Sea Conference. Originally consisting of 42 members, the second Committee was twice enlarged until it became a 91-member body in 1971.

(more)

One of the initial tasks of the Committee when it was set up under Assembly resolution 2467 A (XXIII) of 1968 was to elaborate legal principles and norms for international co-operation in the exploration and use of the sea-bed and ocean floor. The Committee devoted most of its first two years to this effort, leading up to the adoption by the Assembly in 1970 of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction (resolution 2749 (XXV)).

The Declaration, the first internationally agreed set of principles covering this vast area of ocean space, begins with the principle that the international area of the sea-bed and its resources "are the common heritage of mankind" and shall not be subject to appropriation by any means by States or persons". (For further details of the Declaration, see the section on the sea-bed below.)

The Committee's discussions on the Declaration of Principles brought out clearly that the issues of the law of the sea are closely intertwined -- that it is impossible to consider one part of ocean space without reference to the other parts. Accordingly, at the same time that it adopted the Declaration the Assembly decided that it would convene the Third United Nations Conference on the Law of the Sea.

Beginning in 1971, therefore, the Committee's work was broadened to cover all aspects of the law of the sea, focusing on preparations for the Conference. It conducted much of its work in three sub-committees of the whole, with the following mandates:

Sub-Committee I -- to prepare draft treaty articles embodying the international regime, including an international machinery, for the area and resources of the sea-bed beyond the limits of national jurisdiction.

Sub-Committee II -- to prepare a comprehensive list of subjects and issues relating to the law of the sea and to prepare draft treaty articles thereon.

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

(This sub-committee structure provided the model followed by the Conference in dividing its work among three main committees.)

The pattern of work followed by each sub-committee was roughly the same: a general debate on the main issues, followed by the creation of working groups which attempted to prepare draft treaty articles on the basis of proposals and working papers submitted by delegations. Politicians, lawyers, economists, technicians and scientists held no fewer than 469 formal meetings and countless informal ones between 1970 and 1973, including 104 meetings of the Committee, 204 meetings of the sub-committees and 161 meetings of working groups.

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List of Subjects and Issues

Before the treaty drafting work could begin in earnest, however, the Committee had first to agree on a list of subjects and issues relating to the law of the sea -- a kind of skeleton on which to hang the flesh of treaty articles. This assignment, given to the Committee by the Assembly in 1970, took two years to accomplish -- another reflection of the complexity and interrelatedness of the issues involved. The result was a list of 25 main headings and a number of subheadings, drafted by Sub-Committee II and approved by the Committee in 1972 (document A/8721, pages 5-8). The Assembly decided last year that this list should be taken into account by the Conference when it goes about its task of adopting a convention.

The 25 main headings follow, with an indication of the issues which the Committee singled out under each one:

1. International regime for the sea-bed and the ocean floor beyond national jurisdiction: Six issues are listed under this heading: nature and characteristics; structure, functions and powers of the international machinery; economic implications; equitable sharing of benefits bearing in mind the special interests and needs of the developing countries, whether coastal or land-locked; definition and limits of the area; and its use exclusively for peaceful purposes.

2. Territorial sea: The list identifies four main aspects for study in regard to this area (the zone which is closest to the coast and subject to the coastal State's sovereignty): nature and characteristics, including the question of the unity or plurality of regimes in the territorial sea; historic waters (those traditionally belonging to a particular State); limits; innocent passage in the territorial sea; and freedom of navigation and over-flight resulting from the question of plurality of regimes in the territorial sea.

The issue of limits is further subdivided into two parts: first, question of the delimitation of the territorial sea and the various aspects involved; and second, breadth of the territorial sea, whether global or regional criteria should be used, and the different issues raised by open seas and oceans, semi-enclosed seas and enclosed seas.

3. Contiguous zone: This was defined in the 1958 Convention on the Territorial Sea and the Contiguous Zone as an area beyond the territorial sea but no more than 12 miles from the coast. The list of subjects and issues gives three subheadings: nature and characteristics; limits; and rights of coastal States with regard to national security, customs and fiscal control.

4. Straits used for international navigation: To be dealt with under this heading are innocent passage as well as other related matters including the question of the right of transit.

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5. Continental shelf: The 1958 Convention on the Continental Shelf says this term is used as referring "(a) to the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploration of the natural resources of the said areas: (b) to the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands".

The list of subjects and issues cites five aspects of this topic: nature and scope of the sovereign rights of coastal States over the continental shelf, and duties of States; applicable criteria for the outer limit of the continental shelf; question of the delimitation between States and various aspects involved; natural resources of the continental shelf; and scientific research.

6. Exclusive economic zone beyond the territorial sea: This concept, also referred to as "patrimonial sea" by many Latin American States, is not mentioned in the 1958 Law of the Sea Conventions. Nine aspects are cited in the list of subjects and issues: nature and characteristics, including rights and jurisdictior of coastal States in relation to resources, pollution control and scientific research in the zone, as well as duties of States; resources of the zone; freedom of navigation and overflight; regional arrangements; applicable criteria for limits; fisheries; sea-bed within national jurisdiction; prevention and control of pollution and other hazards to the marine environment, including rights and responsibilities of coastal States; and scientific research.

The fisheries aspect is further broken down into exclusive fishery zone, preferential rights of coastal States, management and conservation, protection of coastal States' fisheries in enclosed and semi-enclosed seas, and regime of islands under foreign domination and control in relation to zones of exclusive fishing jurisdiction. The subtopic of the sea-bed within national jurisdiction is also subdivided -- into nature and characteristics, delineation between adjacent and opposite States, sovereign rights over natural resources, and applicable criteria for limits.

7. Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea: Seven aspects of this topic are recognized in the list of subjects and issues: nature, scope and characteristics; sea-bed resources; fisheries; prevention and control of pollution and other hazards to the marine environment; international co-operation in the study and rational exploitation of marine resources; settlement of disputes; and other rights and obligations.

8. High seas: The broad area of the sea beyond national jurisdiction is to be looked at from six aspects, according to the list of subjects and issues: nature and characteristics; rights and duties of States; question of the freedom of the high seas and their regulation; management and conservation of living resources; slavery, piracy and drugs; and hot pursuit.

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9. Land-locked countries: The list singles out four aspects of this topic: general principles of the law of the sea concerning the land-locked countries, rights and interests of land-locked countries, particular interests and needs of developing land-locked countries in the international regime for the sea-bed, and rights and interests of land-locked countries in regard to living resources of the sea.

Rights and interests of land-locked countries include free access to and from the sea through freedom of transit as well as means and facilities for transport and communications; equality of treatment in the ports of transit States; free access to the international sea-bed area beyond national jurisdiction; and participation in the international regime, including the machinery and the equitable sharing in the benefits of the area.

10. Rights and interests of shelf-locked States and States with narrow shelves or short coastlines: Shelf-locked States are those whose continental shelves do not open out onto the high seas; examples are countries bordering certain large seas such as the Mediterranean and Caribbean. These and other categories of "disadvantaged" States dealt with under this topic would have their rights and interests examined from four aspects, according to the list of subjects and issues: international regime, fisheries, special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines, and free access to and from the high seas.

11. Rights and interests of States with broad shelves.

12. Preservation of the marine environment: Five subheadings are given: sources of pollution and other hazards and measures to combat them, measures to preserve the ecological balance of the marine environment, responsibility and liability for damage to the marine environment, rights and duties of coastal States, and international co-operation.

13. Scientific research: Nature, characteristics and objectives of scientific research of the oceans is the first of three subheadings. The others are access to scientific information and international co-operation.

14. Development and Transfer of technology: The subject matter, as set out in the list of subjects and issues, concerns the development of technological capabilities of developing countries through sharing of knowledge and technology between developed and developing countries, training of personnel from developing countries and transfer of technology to developing countries.

15. Regional arrangements.

16. Archipelagos.

17. Enclosed and semi-enclosed seas.

18. Artificial islands and installations.

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19. Regime of islands: This covers islands under colonial dependence or foreign domination or control as well as other related matters.

20. Responsibility and liability for damage resulting from the use of the marine environment.

21. Settlement of disputes.

22. Peaceful uses of the ocean space; zones of peace and security.

23. Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction.

24. Transmission from the high seas.

25. Enhancing the universal participation of States in multilateral conventions relating to the law of the sea.

Sea-Bed Regime and Machinery

The foundation for the Sea-Bed Committee's work in seeking agreement on a body of rules and an organization for the international sea-bed area was the General Assembly's 1970 Declaration of Principles. In condensed form, these are as follows:

1. The area and its resources "are the common heritage of mankind".

2. "The area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof."

3. No State or person shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international regime to be established and the principles of this Declaration.

4. All exploration and exploitation activities shall be governed by the international regime.

5. "The area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination, in accordance with the international regime to be established."

6. "States shall act in the area in accordance with the applicable principles and rules of international law ... and the interests of maintaining international peace and security and promoting international co-operation and mutual understanding."

(more)

7. Exploration and exploitation "shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries".

8. "The area shall be reserved exclusively for peaceful purposes" and agreements shall be concluded as soon as possible to constitute a step towards the exclusion of the area from the arms race.

9. On the basis of these principles, an international regime for the area and its resources, including international machinery to give effect to its provisions, shall be established by "an international treaty of a universal character, generally agreed upon". "The regime shall, inter alia, provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities in the use thereof, and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal."

10. States shall promote international co-operation in scientific research exclusively for peaceful purposes.

11. States shall co-operate in the adoption and implementation of international rules, standards and procedures for the prevention of pollution and other hazards to the marine environment as well as for the protection and conservation of natural resources and the prevention of damage to flora and fauna.

12. States shall pay due regard to the rights and legitimate interests of coastal and other States affected by their activities in the area. Coastal States shall be consulted with a view to avoiding infringement of their rights and interests.

13. Nothing in the Declaration shall affect the legal status of the waters or air space above the international sea-bed area, or the rights of coastal States to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or other hazardous occurrences, subject to the international regime to be established.

14. Every State and international organization is responsible for ensuring that activities in the area by those under its jurisdiction or acting on its behalf shall conform to the international regime. "Damage caused by such activities shall entail liability."

15. The parties to any dispute relating to activities in the area and its resources shall resolve such dispute by the measures for peaceful settlement mentioned in Article 35 of the United Nations Charter and such procedures for settling disputes as may be agreed on in the international regime.

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Drafting work for treaty articles on an international regime and machinery for the sea-bed began in a working group of Sub-Committee I in 1972. Starting from an informal working paper intended to reflect areas of agreement and disagreement, the drafting process was carried out in two stages -- a first reading designed to ensure that the opinions of members were fully and accurately reflected in the paper, and a second reading in which members sought to narrow the areas of disagreement as far as possible and to merge alternative texts where there was no fundamental difference of approach.

As regards the international regime, the Working Group carried out a first reading of texts relating to the limits of the sea-bed area, and completed a second reading of texts concerning the following 20 subjects: the common heritage of mankind; activities regarding exploration and exploitation; non-appropriation or claim or exercise of sovereignty or sovereign rights, or of rights incompatible with the treaty rights, and the non-recognition of any such claims or exercise of rights; use of the area by all States without discrimination; general conduct in the area and in relation to the area; benefit of mankind as a whole; preservation of the area exclusively for peaceful purposes; who may exploit the area; general norms regarding exploitation; scientific research; transfer of technology; protection of the marine environment; protection of human life; due regard to the rights of coastal States; legal status of waters superjacent to the area; accommodation of activities in the marine environment and in the area; responsibility to ensure observance of the international regime and liability for damages; access to and from the area; archaeological and historical objects; and settlement of disputes.

With regard to international machinery, the Working Group completed its second reading of texts concerning the following subjects: the Assembly and its powers and functions; the Council and its powers and functions; the system of settlement of disputes (including the Tribunal); and an operating agency or bodies, variously called the Enterprise, operations commission, permanent board, management and development commission, international sea-bed operations organization, exploration and production agency, and exploitation commission.

A first reading was completed of texts relating to the following aspects of the machinery: establishment of the machinery; nature of the sea-bed authority; status of the authority; operation of vessels and emplacement of installations by the authority; installations and other facilities for the exploration of the area and the exploitation of its resources; privileges and immunities; relationships with other organizations; fundamental principles of the functioning of the authority; purposes of the authority; powers and functions of the authority; principal organs of the authority; the secretariat; various proposed bodies, including a rules and recommended practices commission, planning/price stabilization commission, scientific and technological commission, legal commission, international sea-bed boundary review commission, and inspection and conservation commission; and miscellaneous provisions.

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The texts produced by the Working Group of Sub-Committee I, "illustrating areas of agreement and disagreement", occupy 127 pages of the Committee's final report (document A/9021, volume II, pages 39-165). In most cases, two or more alternative texts are given for each draft article.

In addition to these subjects, delegations in the Working Group suggested a number of other matters which might need to be dealt with, including general rules and regulations regarding exploration of the area and exploitation of its resources, integrity of investments, regional arrangements, the participation of disadvantaged countries, a statute for the Tribunal, criteria for the sharing of benefits, the parties to the treaty, and transitional provisions. Not all delegations accepted this list in its entirety.

The Secretary-General will submit to the Conference a study on the economic implications of sea-bed mining. This will be a follow-up to earlier papers presented to the Sea-Bed Committee in response to Assembly resolution 2750 A (XXV) of 1970.

The first of these papers, issued in 1971, noted that technological developments would eventually make deep-sea petroleum and manganese nodule exploitation not only technically possible but also commercially feasible. It predicted that petroleum markets were unlikely to be affected significantly by such developments, because of the higher costs of deep-water production and the abundance of on-shore and shallow-water petroleum. However, it held that future exploitation of manganese nodules lying on the ocean bottom might become an important source of the world's nickel requirements and might eventually become a major source of cobalt supply as well, in addition to supplying a minor proportion of copper needs.

General Aspects of Sea Law

Sub-Committee II, which drew up the list of issues and topics in 1972, began work on draft articles in March 1973, when its Working Group started meeting. After a preliminary discussion on how to go about the drafting, the Group decided that the subjects and issues assigned to it would not be examined one by one or in groups, but should be regarded as forming part of one whole.

A comparative table was drawn up for the Group in July, setting out all 70 texts submitted by delegations, arranged according to the headings and subheadings in the list of subjects and issues (document A/9021, Vol. V). For some of these subjects consolidated texts were prepared, making possible a more direct comparison of the various proposals provision by provision (document A/9021, Vol. VI).

Using these two compilations as a tool, the Working Group decided to present variant (alternative) texts which might, where appropriate, form the basis of draft articles. Delegations presented many variants during the Group's last few meetings in August, and informal consultations made it possible to effect some reduction in the number of variants (document A/9021, Vol. IV). However, it was recognized in the Working Group that the presentation or non-presentation of variants by delegations did not commit them to a particular position or signify support for one or the other variants presented, inasmuch as Governments' official proposals were lodged individually with Sub-Committee II.

The 161 pages of variants deal with such subjects and issues as the nature and characteristics of the territorial sea, the delimitation of the territorial sea, the breadth of the territorial sea, innocent passage, straits, archipelagos, the exclusive economic zone, the continental shelf, preferential rights and duties of coastal States, rights and interests of land-locked and geographically disadvantaged countries, regional arrangements, and certain aspects of fishing on the high seas.

Marine Environment, Science and Technology

The main subjects examined by Sub-Committee III were preservation of the marine environment, scientific research, and the development and transfer of technology.

The group known as Working Group 2 began its drafting on the marine environment in March 1973. Basing itself on proposals submitted to the Sub-Committee by delegations, the Working Group discussed the following subjects: general obligation to preserve and protect the marine environment; general obligation of States to adopt measures to prevent pollution of the marine environment, irrespective of the source of pollution; obligation of States to prevent damage from marine pollution; particular obligation of States to adopt specific measures in connexion with certain sources of marine pollution, and the relation between such measures and generally accepted international standards; global and regional co-operation; technical assistance; monitoring; standards; and enforcement.

Informal consultations were then held under the Working Group's auspices, between sponsors of the various proposals and other delegations. They were able to produce a number of texts -- usually in alternative versions -- for draft articles on many of these subjects, but the Working Group as a whole did not have time to examine those texts, which are reproduced in the Committee's 1973 report (document A/9021, Vol. I, pages 86-89 and 91-105).

Working Group 3 of Sub-Committee III began discussing the various proposals on scientific research in April 1973. Its discussions covered the definition and objectives of marine scientific research, the conduct and promotion of marine scientific research, and the prerequisites for the conduct of such research. Informal consultations produced several alternative versions of texts for draft articles on this subject (document A/9021, Vol. I, pages 103-105), but the Working Group as a whole did not have time to examine them.

As to development and transfer of technology, Sub-Committee III completed a general debate on this topic but its Working Group 3 did not have time to begin work on draft articles.

Conference Procedure

The second session of the Conference is to be opened by its President at 3 p.m. Thursday, 20 June, at Parque Central, a new complex of commercial and residential buildings near the centre of Caracas. Following a minute of silence for prayer or meditation, the Conference will hear an address by the President

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The next order of business will be adoption of the rules of procedure. This was to have taken place during the organizational session held in New York last December, but disagreements persisted over the question of how decisions are to be taken by the Conference, including rules for voting.

The question of decision-making at the Conference had been discussed by the General Assembly, which approved last November the following "gentlemen's agreement" reached between delegations:

> "Recognizing that the Conference at its inaugural session will adopt its procedures, including its rules regarding methods of voting, and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance,
>
> "The General Assembly expresses the view that the Conference should make every effort to reach agreement on substantive matters by way of consensus; that there should be no voting on such matters until all efforts at consensus have been exhausted; and further expresses the view that the Conference at its inaugural session will consider devising appropriate means to that end."

When it proved impossible to reach agreement on this issue in December, the Conference agreed to a proposal by its President that he hold informal consultations on the matter in New York from 25 February to 1 March 1974. It further agreed that the decision in regard to the rules should be taken by the Conference in Caracas not later than 27 June, if necessary by voting. The understanding agreed to by the Conference was that the rules would be adopted by a simple majority unless the Conference decided that this constituted an important question requiring a two-thirds majority.

Informal consultations were held as scheduled from 25 February to 1 March, and it was agreed at that time that the contacts would resume in New York from 12 to 14 June.

Draft rules of procedure were drawn up last November by the Secretariat (document A/CONF.62/2 and Add.1-3), "designed to facilitate as far as possible the search for the broadest possible agreement on any matter of substance, before a formal vote is taken by a committee or by the Conference". To this end, what has been described in the debate as a "cooling-off period" is provided for in the draft rules, under the requirement that, if there is any objection to taking a vote, a main committee would secure the permission of the Conference before voting. Both in the Conference and in any committee the presiding officer would have authority to defer taking a vote for a given period.

The draft rules follow the rules of the General Assembly in requiring a simple majority vote for the adoption of proposals in committee and a two-thirds majority in plenary. Abstaining or absent delegations would not be counted in determining whether a majority exists.

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Several amendments to this procedure have been proposed. Two of them would require larger majorities for substantive decisions: a two-thirds majority of States participating in the Conference and not just of those voting "yes" or "no" (United States), and a nine-tenths majority of those present and voting (Soviet Union). Other proposed amendments would change the "cooling-off" procedure in a variety of ways.

On other matters, the draft rules provide for a 48-member General Committee to assist the President in the conduct of the business of the Conference, ensure the co-ordination of its work, and make recommendations to further the progress of the Conference. Its members are the President, Vice-Presidents and Rapporteur-General of the Conference and the officers of the three main committees; the Chairman of the Drafting Committee may participate in the General Committee without the right to vote.

There is also a 23-member Drafting Committee and a nine-member Credentials Committee.

Conference Participants

The General Assembly has invited to the Conference the 135 Members of the United Nations and the other States (now numbering 13) which are members of one or more specialized agencies. It also invited the Republic of Guinea-Bissau (which has since become a member of a specialized agency -- the Food and Agriculture Organization) and the Democratic Republic of Viet-Nam. The latter declined the invitation last November, however, because the Provisional Government of the Republic of South Viet-Nam had not been invited (document A/9350).

In addition to these 149 States, the Assembly requested the Secretary-General to invite the United Nations Council for Namibia, the specialized agencies of the United Nations, and the International Atomic Energy Agency. Other intergovernmental bodies and interested non-governmental organizations having consultative status with the Economic and Social Council are also to be invited to attend.

The draft rules of procedure provide that observers for intergovernmental organizations may participate without vote in the Conference and its main committees and subsidiary organs, on the invitation of the presiding officer and on questions within the scope of their activities. They may also have written statements distributed to delegations. International non-governmental organizations would have the right, under the draft rules, to designate observers who could attend public meetings of the Conference and its main committees, make oral statements on the presiding officer's invitation and subject to the approval of the body concerned, and have written statements distributed.

(more)

Officers of Conference

The officers of the Conference, elected at the organizational session in December, are as follows:

President: H. Shirley Amerasinghe* (Sri Lanka)

Vice-Presidents (31): Algeria, Belgium, Bolivia, Chile, China, Dominican Republic, Egypt, France, Iceland, Indonesia, Iran, Iraq, Kuwait, Liberia, Madagascar, Nepal, Nigeria, Norway, Pakistan, Peru, Poland, Singapore, Trinidad and Tobago, Tunisia, Uganda, USSR, United Kingdom, United States, Yugoslavia, Zaire and Zambia.

Rapporteur-General: Kenneth Rattray (Jamaica)

Committee I (international sea-bed regime and machinery):

Chairman: Paul Bamela Engo (United Republic of Cameroon)

Vice-Chairmen: Brazil, German Democratic Republic and Japan

Rapporteur: H. Charles Mott (Australia)

Committee II (general aspects of law of the sea):

Chairman: Andres Aguilar (Venezuela)

Vice-Chairmen: Czechoslovakia, Kenya and Turkey

Rapporteur: Satya N. Nandan (Fiji)

Committee III (marine environment, research and technology transfer)

Chairman: Alexander Yankov (Bulgaria)

Vice-Chairmen: Colombia, Cyprus and Federal Republic of Germany

Rapporteur: Abdel M.A. Hassan (Sudan)

Drafting Committee (23 members):

Chairman: J.A. Beesley (Canada)

Other members: Afghanistan, Argentina, Bangladesh, Ecuador, El Salvador, Ghana, India, Italy, Lesotho, Malaysia, Mauritania, Mauritius, Mexico, Netherlands, Philippines, Romania, Sierra Leone, Spain, Syria, USSR, United Republic of Tanzania and United States.

Credentials Committee (9 members):

Chairman (elected by the Committee): Heinrich Gleissner (Austria)

Members: Austria, Chad, China, Costa Rica, Hungary, Ireland, Ivory Coast, Japan and Uruguay.

Constantin A. Stavropoulos has been appointed by Secretary-General Kurt Waldheim as his Special Representative to the Conference (biographical note in Press Release BIO/1102 of 24 May). The Executive Secretary of the Conference is David L.D. Hall.

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* For biographical note see Press Release BIO/1014 SEA/4 of 5 December 1973.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

A/CONF.62/WP.6
26 June 1974

ORIGINAL: ENGLISH

Second session
Agenda item 4

ADOPTION OF THE RULES OF PROCEDURE

Amendments to the draft rules of procedure

Proposals by the President

On the basis of the discussion of the President's proposal 1/ during the 19th meeting of the Conference, the following change should be made in subparagraph (d) of rule 54 2/ by adding the underscored and deleting the bracketed words as follows:

"(d) Rule 37 shall be applied to the Main Committees, provided that a determination pursuant to paragraph 1 shall require a majority of the representatives present and voting; the deferment of the question of taking a vote by the Chairman of the Committee in conformity with [provided for by] subparagraph 2 (a) shall not exceed five calendar days and the assistance specified in subparagraph 2 (c) shall be rendered the Chairman by the officers of the Committee."

1/ A/CONF.62/WP.1 and Add.1.

2/ As previously set out in A/CONF.62/WP.3, para. 4.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

A/CONF.62/WP.4/Add.1
27 June 1974

ORIGINAL: ENGLISH

Second session
Agenda item 4

ADOPTION OF THE RULES OF PROCEDURE

Amendments to the draft rules of procedure

Proposals by the President

1. On the basis of further informal consultations with the sponsors of amendments that had been proposed to the draft rules of procedure, 1/ the President suggests that certain texts be reformulated, added or deleted as follows:

2. Rule 45:

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

3. Rule 52:

Add the following new paragraph: 2/

2. Without prejudice to paragraph 1 of this rule, the sponsor or a representative of the group of sponsors of a proposal shall be invited to the appropriate meetings of the Drafting Committee and may participate, without the right to vote, in the discussion at the discretion of the Chairman, in case the Conference or a Main Committee decides to refer that proposal to the Drafting Committee without taking a decision thereon.

4. Rule 55:

Delete.

1/ A/CONF.62/L.1.

2/ To follow the text set forth in A/CONF.62/WP.4, para. 6, which will become paragraph 1 of rule 52.

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5. Rule 58:

Reformulate paragraph 1 of this rule as follows:

1. Summary records of the plenary meetings of the Conference and of the meetings of the Main Committees shall be kept in the languages of the Conference. As a general rule, they shall be circulated as soon as possible simultaneously in all the languages of the Conference, to all representatives, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

6. Rule 62A: 3/

Representatives of the United Nations Council for Namibia

1. The United Nations Council for Namibia may designate representatives to participate, without the right to vote, in the deliberations of the Conference and the Main Committees and, as appropriate, the subsidiary organs.

2. Written statements of the Council shall be distributed by the Secretariat to the delegations at the Conference.

7. Rule 64:

Method of amendment

These rules of procedure may be amended by a decision of the Conference taken by the majority specified in paragraph 1 of rule 39, after the General Committee has reported on the proposed amendment.

3/ This rule is to precede rule 62.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

Distr.
GENERAL

A/CONF.62/30
2 July 1974

RULES OF PROCEDURE

(adopted at its 20th meeting on 27 June 1974)

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INTRODUCTION

1. By paragraph 10 of its resolution 3067 (XXVIII) of 16 November 1973 by which the Third United Nations Conference on the Law of the Sea was convened, the General Assembly of the United Nations requested the Secretary-General:

> "to prepare appropriate draft rules of procedure for the Conference, taking into account the views expressed in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and in the General Assembly, and to circulate the draft rules of procedure in time for consideration and approval at the organizational session of the Conference;".

2. In compliance with this mandate the Secretary-General prepared a set of draft rules of procedure (A/CONF.62/2), which were considered at the organizational session of the Conference (A/CONF.62/SR.6, 8-11, 13). On the basis of certain decisions taken at that session as to the organization and structure of the Conference and as a result of informal consultations, the Secretary-General presented some revisions to the draft rules (A/CONF.62/2/Add.1-3), and a number of delegations proposed amendments during that session (A/CONF.62/4-14) or subsequently (A/CONF.62/7/Rev.1, A/CONF.62/10/Add.1, A/CONF.62/16 and 18-21).

3. During the organizational session the President conducted informal consultations on the rules of procedure. Pursuant to a decision taken at the final meeting of that session he conducted further informal consultations from 25 February to 1 March and from 12 to 14 June 1974. These consultations were resumed and completed during the first week of the second session.

4. At its second session the Conference considered (A/CONF.62/SR.15-20) the draft rules and the amendments proposed thereto, on the basis of a working paper prepared by the Secretariat (A/CONF.62/L.1). After receiving certain proposals by the President consequent on his informal consultations (A/CONF.62/WP.1 and Add.1, WP.4 and Add.1) and the debates in the Conference (A/CONF.62/WP.3 and Add.1, WP.6-7), the Conference adopted its rules of procedure by consensus at its 20th meeting on 27 June 1974.

5. In connexion with the resolution by which the Conference was convened, the General Assembly at its 2169th meeting on 16 November 1973 approved a "gentleman's agreement" covering the procedures by which it considered the Conference should take decisions on substantive matters (reproduced as an appendix to A/CONF.62/2 and A/CONF.62/L.1). After consultations the President proposed (A/CONF.62/WP.2) that he should make a declaration incorporating the terms of that agreement, which the Conference would then endorse and which would be set out in an appendix to the rules of procedure. The Conference approved these proposals and endorsed the President's declaration by consensus at its 19th meeting on 27 June 1974.

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CHAPTER I

REPRESENTATION AND CREDENTIALS

Composition of delegations

Rule 1

The delegation of each State participating in the Conference shall consist of accredited representatives and such alternate representatives and advisers as may be required.

Alternates and advisers

Rule 2

An alternate representative or an adviser may act as a representative upon designation by the chairman of the delegation.

Submission of credentials

Rule 3

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary if possible not later than 24 hours after the opening of the Conference. Any later change in the composition of delegations shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of the State or Government or by the Minister for Foreign Affairs. In the absence of a contrary indication, credentials shall have effect for all sessions of the Conference unless withdrawn or superseded by new credentials.

Credentials Committee

Rule 4

A Credentials Committee shall be appointed at the beginning of the first session of the Conference to serve for all sessions. It shall consist of nine members, who shall be appointed by the Conference on the proposal of the President. It shall examine the credentials of representatives and report to the Conference without delay. At the subsequent sessions of the Conference it shall examine only the credentials of representatives newly accredited, unless the Conference decides otherwise by a majority of the representatives present and voting.

Provisional participation in the Conference

Rule 5

Pending a decision of the Conference upon their credentials, representatives shall be entitled to participate provisionally in the Conference.

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CHAPTER II

OFFICERS

Election

Rule 6

The Conference shall elect a President, 31 Vice-Presidents and a Rapporteur-General, as well as a Chairman, three Vice-Chairmen and a Rapporteur of each Main Committee provided for in rule 50 and the Chairman of the Drafting Committee provided for in rule 53. These officers shall be elected on the basis of ensuring the representative character of the General Committee and of the officers of each Main Committee; their term of office shall be for all sessions of the Conference. The Conference may also elect such other officers as it deems necessary for the performance of its functions.

General powers of the President

Rule 7

In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each plenary meeting, direct the discussions at such meetings, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules of procedure, have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers, the adjournment or closure of the debate, the suspension or the adjournment of the meeting.

Rule 8

The President, in the exercise of his functions, remains under the authority of the Conference.

Acting President

Rule 9

If the President is absent from a plenary meeting or any part thereof, he shall designate one of the Vice-Presidents to take his place.

Rule 10

A Vice-President acting as President shall have the same powers and duties as the President.

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Replacement of the President

Rule 11

If the President is unable to perform his functions, a new President shall be elected.

The President shall not vote

Rule 12

The President, or a Vice-President acting as President, shall not vote but shall designate another member of his delegation to vote in his place.

Functions of the Rapporteur-General

Rule 13

The Rapporteur-General shall act in that capacity in respect of both the Conference and the General Committee. He shall prepare, for approval of the Conference, any reports to be submitted to the General Assembly of the United Nations.

CHAPTER III

GENERAL COMMITTEE

Composition

Rule 14

There shall be a General Committee consisting of the President, the Vice-Presidents, the Rapporteur-General and the officers of the Main Committees; the Chairman of the Drafting Committee m y participate in the General Committee, without the right to vote. The President of the Conference or, in his absence, the Vice-President designated by him, shall serve as Chairman of the General Committee.

Substitute members

Rule 15

If the President, the Rapporteur-General, or the Chairman or Rapporteur of a Main Committee finds it necessary to be absent during a meeting of the General Committee, he may designate a member of his delegation to sit and vote in the Committee. The Chairman of the Drafting Committee may, in case of absence, designate a member of that Committee to take his place in the General Committee.

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Functions

Rule 16

The General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work.

Rule 17

Questions affecting the co-ordination of their work may be referred by other committees to the General Committee, which may make such arrangements as it sees fit, including the holding of joint meetings of committees or subsidiary organs and, where appropriate, proposing to the Conference the establishment of joint subsidiary organs.

Rule 18

The General Committee shall meet periodically throughout each session to review the progress of the Conference, its Main Committees and subsidiary organs, and to make recommendations for furthering such progress. It shall also meet at such other times during a session as the President deems necessary or upon the request of any other of its members.

Rule 19

The General Committee shall perform such additional tasks as are provided for in these rules or as are assigned to it by the Conference.

CHAPTER IV

SECRETARIAT

Duties of the Secretary-General and the Secretariat

Rule 20

1. The Secretary-General of the United Nations or his special representative shall act in that capacity in all meetings of the Conference, its committees and subsidiary organs.

2. The Secretary-General shall appoint an Executive Secretary of the Conference and shall provide and direct the staff required by the Conference, its committees and subsidiary organs.

3. The Secretariat shall receive, translate, reproduce and distribute documents, reports and resolutions of the Conference, interpret speeches made at the meetings, prepare and circulate records of the public meetings; have the custody and preservation of the documents in the archives of the United Nations; publish the reports of the public meetings; and, generally, perform all other work which the Conference may require.

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Statements by the Secretariat

Rule 21

The Secretary-General or any member of the staff designated for that purpose may at any time make either oral or written statements concerning any question under consideration.

CHAPTER V

CONDUCT OF BUSINESS

Quorum

Rule 22

The President may declare a meeting open and permit the debate to proceed when representatives of at least one third of the States participating in that session of the Conference are present. The presence of representatives of a majority of the States so participating shall be required for any decision to be taken, provided that for a decision on any matter of substance the presence of representatives of two thirds of the States so participating shall be required.

Speeches

Rule 23

No person may address the Conference without having previously obtained the permission of the President. Subject to rules 24 and 25, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall be in charge of drawing up a list of such speakers. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

Precedence

Rule 24

The Chairman or Rapporteur of a committee, or the representative of a subsidiary organ, may be accorded precedence for the purpose of explaining the conclusion arrived at by his committee or organ.

Points of order

Rule 25

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with these rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote and the President's ruling

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shall stand unless the appeal is approved by a majority of the representatives present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Time-limit on speeches

Rule 26

The Conference may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. When the debate is limited and a representative has spoken his allotted time, the President shall call him to order without delay.

Closing of list of speakers

Rule 27

During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. He may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Adjournment of debate

Rule 28

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Closure of debate

Rule 29

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two speakers opposing the closure, and the President may limit the time to be allowed to speakers under this rule. Adoption of the motion shall require a two-thirds majority of the representatives present and voting.

Suspension or adjournment of the meeting

Rule 30

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment.

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Order of procedural motions

Rule 31

Subject to rule 25, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) to suspend the meeting;

(b) to adjourn the meeting;

(c) to adjourn the debate on the question under discussion;

(d) to close the debate on the question under discussion.

Initial documentation

Rule 32

The initial documentation of the Conference shall consist of the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and of all other relevant documentation of the General Assembly and the Committee.

Proposals and amendments

Rule 33

Proposals and amendments shall normally be introduced in writing and handed to the Executive Secretary, who shall circulate copies to the delegations. No proposal shall be discussed or put to the vote at any meeting of the Conference unless copies of it have been circulated to all delegations in all languages of the Conference not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

Decisions on competence

Rule 34

Subject to rule 25, any motion calling for a decision on the competence of the Conference to discuss any matter or to adopt a proposal or an amendment submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

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Withdrawal of motions

Rule 35

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any representative.

Reconsideration of proposals

Rule 36

When a proposal has been adopted or rejected it may not be reconsidered unless the Conference, by a two-thirds majority of the representatives present and voting, so decides. Permission to speak on the motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

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CHAPTER VI

DECISION-MAKING

Requirements for voting

Rule 37

1. Before a matter of substance is put to the vote, a determination that all efforts at reaching general agreement have been exhausted shall be made by the majority specified in paragraph 1 of rule 39.

2. Prior to making such a determination the following procedures may be invoked:

(a) When a matter of substance comes up for voting for the first time, the President may, and shall if requested by at least 15 representatives, defer the question of taking a vote on such matter for a period not exceeding 10 calendar days. The provisions of this subparagraph may be applied only once on the matter.

(b) At any time the Conference, upon a proposal by the President or upon motion by any representative, may decide, by a majority of the representatives present and voting, to defer the question of taking a vote on any matter of substance for a specified period of time.

(c) During any period of deferment, the President shall make every effort, with the assistance as appropriate of the General Committee, to facilitate the achievement of general agreement, having regard to the over-all progress made on all matters of substance which are closely related, and a report shall be made to the Conference by the President prior to the end of the period.

(d) If by the end of a specified period of deferment the Conference has not reached agreement and if the question of taking a vote is not further deferred in accordance with subparagraph (b) of this paragraph, the determination that all efforts at reaching general agreement have been exhausted shall be made in accordance with paragraph 1 of this rule.

(e) If the Conference has not determined that all efforts at reaching agreement had been exhausted, the President may propose or any representative may move, notwithstanding rule 36, after the end of a period of no less than five calendar days from the last prior vote on such a determination, that such a determination be made in accordance with paragraph 1 of this rule; the requirement of five days delay shall not apply during the last two weeks of a session.

3. No vote shall be taken on any matter of substance less than two working days after an announcement that the Conference is to proceed to vote on the matter has been made, during which period the announcement shall be published in the Journal at the first opportunity.

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Voting rights

Rule 38

Each State represented at the Conference shall have one vote.

Required majority

Rule 39

1. Decisions of the Conference on all matters of substance, including the adoption of the text of the Convention on the Law of the Sea as a whole, shall be taken by a two-thirds majority of the representatives present and voting, provided that such majority shall include at least a majority of the States participating in that session of the Conference.

2. Rule 37 shall not apply to the adoption of the text of the Convention as a whole. However, the Convention shall not be put to the vote less than four working days after the adoption of its last article.

3. Except as otherwise specified in these rules, decisions of the Conference on all matters of procedure shall be taken by a majority of the representatives present and voting.

4. If the question arises whether a matter is one of procedure or of substance, the President shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless the appeal is approved by a majority of the representatives present and voting.

Meaning of the phrase "representatives present and voting"

Rule 40

For the purpose of these rules, the phrase "representatives present and voting" means representatives present and casting an affirmative or negative vote, representatives who abstain from voting shall be considered as not voting.

Method of voting

Rule 41

1. The Conference shall normally vote by show of hands or by standing, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the States participating in the Conference, beginning with the delegation whose name is drawn by lot by the President.

2. When the Conference votes by mechanical means, a non-recorded vote shall replace a vote by show of hands or by standing and a recorded vote shall replace a roll-call vote. Any representative may request a recorded vote. In the case of a

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recorded vote, the Conference shall, unless a representative requests otherwise, dispense with the procedure of calling out the names of the States; nevertheless, the results of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Conduct during voting

Rule 42

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connexion with the actual conduct of the voting. The President may permit representatives to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. The President may limit the time to be allowed for such explanations.

Division of proposals and amendments

Rule 43

A representative may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Order of voting on amendments

Rule 44

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

Order of voting on proposals

Rule 45

If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after each vote on a proposal, decide whether to vote on the next proposal.

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Elections

Rule 46

All elections shall be held by secret ballot unless otherwise decided by the Conference.

Rule 47

1. If, when one person or one delegation is to be elected no candidate obtains in the first ballot the votes of a majority of the representatives present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 48

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the votes of a majority of the representatives present and voting shall be elected. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Equally divided votes

Rule 49

If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.

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CHAPTER VII

COMMITTEES AND SUBSIDIARY ORGANS

Establishment

Rule 50

In addition to the General Committee, the Drafting Committee and the Credentials Committee, the Conference shall establish three Main Committees, the competence of which shall be determined by the Conference. The Conference and each Committee may, subject to rule 17, establish subsidiary organs (sub-committees or working groups).

Representation in Main Committees

Rule 51

Each State participating in the Conference may be represented by one person on each Main Committee. It may assign to these Committees such alternate representatives and advisers as may be required.

Statements to restricted organs

Rule 52

Any State participating in the Conference that is not a member of a Committee or subsidiary organ shall have the right to explain its views to that body on any proposal that that State has made when that proposal is under consideration, providing that no co-sponsor of the proposal is a member of that body.

Drafting Committee

Rule 53

1. The Conference shall appoint a Drafting Committee to serve for all sessions. The Drafting Committee shall consist of 23 members, including its Chairman; the Rapporteur-General may participate in the Drafting Committee, without the right to vote. It shall, without reopening substantive discussion on any matter, formulate drafts and give advice on drafting as requested by the Conference or by a Main Committee, co-ordinate and refine the drafting of all texts referred to it, without altering their substance, and report to the Conference or to the Main Committee as appropriate. It shall have no power of or responsibility for initiating texts.

2. Without prejudice to paragraph 1 of this rule, the sponsor or a representative of the group of sponsors of a proposal shall be invited to the appropriate meetings of the Drafting Committee and may participate, without the right to vote, in the discussion at the discretion of the Chairman, in case the Conference or a Main Committee decides to refer that proposal to the Drafting Committee without taking a decision thereon.

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Officers and elections

Rule 54

Except in the cases of the officers of the Main Committees and the Chairman of the Drafting Committee, each committee and subsidiary organ shall elect its own officers. The elections shall be held by secret ballot unless the committee or organ decides otherwise in an election where only one candidate is standing. The nomination of each candidate shall be limited to one speaker, after which the committee or organ shall immediately proceed to the election.

Officers, conduct of business and voting

Rule 55

The rules relating to officers, conduct of business and voting of the Conference (contained in chapters II (rules 6-13), V (rules 22-36) and VI (rules 37-49) above) shall be applicable, mutatis mutandis, to the proceedings of committees and subsidiary bodies, except that:

(a) The Chairman of the General, Drafting and Credentials Committees and the chairmen of subsidiary organs may exercise the right to vote.

(b) The presence of representatives of a majority of the States participating in that session of the Conference shall be required for any decision to be taken on any matter in a Main Committee; a majority of the representatives on the General, Drafting or Credentials Committee or any subsidiary organ shall constitute a quorum.

(c) Decisions of committees and subsidiary organs shall be taken by a majority of the representatives present and voting, except in the case of a reconsideration of a proposal for which the majority required shall be that established by rule 36.

(d) Rule 37 shall be applied to the Main Committees, provided that a determination pursuant to paragraph 1 shall require a majority of the representatives present and voting, the deferment of the question of taking a vote by the Chairman of the Committee in conformity with subparagraph 2 (a) shall not exceed five calendar days and the assistance specified in subparagraph 2 (c) shall be rendered the Chairman by the officers of the Committee.

CHAPTER VIII

LANGUAGES AND RECORDS

Languages of the Conference

Rule 56

Chinese, English, French, Russian and Spanish shall be the languages of the Conference.

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Interpretation

Rule 57

1. Speeches made in any language of the Conference shall be interpreted into the other such languages.

2. Any representative may make a speech in a language other than a language of the Conference. In this case he shall himself provide for interpretation into one of the languages of the Conference and interpretation into the other such languages by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Records of meetings

Rule 58

1. Summary records of the plenary meetings of the Conference and of the meetings of the Main Committees shall be kept in the languages of the Conference. As a general rule, they shall be circulated as soon as possible simultaneously in all the languages of the Conference, to all representatives, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of meetings of the Conference and the Main Committees and of other committees and subsidiary organs when they so decide.

CHAPTER IX

PUBLIC AND PRIVATE MEETINGS

Plenary and committee meetings

Rule 59

The plenary meetings of the Conference and the meetings of committees shall be held in public unless the body concerned decides otherwise.

Meetings of subsidiary organs

Rule 60

As a general rule meetings of subsidiary organs shall be held in private.

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Communiqués to the press

Rule 61

At the close of any private meeting a communiqué may be issued to the press through the Executive Secretary.

CHAPTER X

OBSERVERS

Representatives of the United Nations Council for Namibia

Rule 62

1. The United Nations Council for Namibia may designate representatives to participate, without the right to vote, in the deliberations of the Conference and the Main Committees and, as appropriate, the subsidiary organs.

2. Written statements of the Council shall be distributed by the Secretariat to the delegations at the Conference.

Observers for intergovernmental organizations

Rule 63

1. The specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations invited to the Conference may designate representatives to participate as observers, without the right to vote, in the deliberations of the Conference, the Main Committees and, as appropriate, the subsidiary organs, upon the invitation of the President or chairman, as the case may be, on questions within the scope of their activities.

2. Written statements of such observers shall be distributed by the Secretariat to the delegations at the Conference.

Observers for non-governmental organizations

Rule 64

1. International non-governmental organizations invited to the Conference may designate representatives to sit as observers at public meetings of the Conference and its Main Committees.

2. Upon the invitation of the President or chairman, as the case may be and subject to the approval of the body concerned, these representatives may make oral statements on questions within the scope of their activities.

3. Written statements submitted by these non-governmental organizations on

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subjects in which they have a special competence and which are related to the work of the Conference, shall be distributed by the Secretariat in the quantities and in the languages in which the statements were made available.

CHAPTER XI

AMENDMENTS TO THE RULES OF PROCEDURE

Method of amendment

Rule 65

These rules of procedure may be amended by a decision of the Conference taken by the majority specified in paragraph 1 of rule 39, after the General Committee has reported on the proposed amendment.

APPENDIX

DECLARATION INCORPORATING THE "GENTLEMAN'S AGREEMENT" 1/ MADE BY THE PRESIDENT AND ENDORSED BY THE CONFERENCE AT ITS 19TH MEETING ON 27 JUNE 1974

"Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance,

"The Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted."

1/ Approved by the United Nations General Assembly at its 2169th meeting on 16 November 1973.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

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Caracas, 20 June to 29 August 1974

LIST OF INTERESTED NON-GOVERNMENTAL ORGANIZATIONS HAVING CONSULTATIVE STATUS WITH THE ECONOMIC AND SOCIAL COUNCIL

1. Under paragraph 8 of resolution 3067 (XXVIII), the General Assembly requested the Secretary-General to invite to the Conference non-governmental organizations in accordance with paragraph 9 of resolution 3029 A (XXVII), which reads as follows:

> "9. Requests the Secretary-General, subject to approval by the Conference, to invite interested non-governmental organizations having consultative status with the Economic and Social Council to send observers to the Conference;".

2. The following non-governmental organizations having consultative status with the Economic and Social Council have expressed the desire to be included in the list to be presented to the Conference for approval:

CATEGORY I

International Chamber of Commerce

International Confederation of Free Trade Unions

International Co-operative Alliance

International Council of Women

International Student Movement for the United Nations

United Towns Organization

World Confederation of Labour

World Federation of United Nations Associations

CATEGORY II

Carnegie Endowment for International Peace

Friends World Committee for Consultation

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CATEGORY II (continued)

International Air Transport Association
International Bar Association
International Chamber of Shipping
International Council of Environmental Law
International Council of Scientific Unions
International Federation for Human Rights
International Hotel Association
International Law Association
International Organization of Consumers Unions
International Union for Conservation of Nature and Natural Resources
Pan American Federation of Engineering Societies (UPADI)
Women's International League for Peace and Freedom
World Association of World Federalists
World Peace Through Law Center

ROSTER

Asian Environmental Society
Foresta Institute for Ocean and Mountain Studies
Friends of the Earth (F.O.E.)
Inter-American Council of Commerce and Production
International Association for Religious Freedom
International Institute for Environmental Affairs
International Ocean Institute
International Studies Association
Latin American Association of Finance Development Institutions
Mutual Assistance of the Latin American Government Oil Companies
National Audubon Society
Sierra Club
Society for International Development
United Seamen's Service
World Federation of Scientific Workers
World Society of Ekistics

3. The Secretary-General proposes, upon approval of the list by the Conference, to extend invitations to the organisations in conformity with the provisions of the above-mentioned resolutions.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

PROVISIONAL

For participants only

A/CONF.62/SR.46
31 July 1974

ORIGINAL: ENGLISH

Second Session

PROVISIONAL SUMMARY RECORD OF THE FORTY-SIXTH PLENARY MEETING

Held at the Parque Central, Caracas,
on Monday, 29 July 1974, at 10.20 a.m.

President: Mr. AMERASINGHE Sri Lanka

CONTENTS

PROGRESS OF WORK OF THE SESSION: STATEMENTS BY THE CHAIRMEN OF THE MAIN COMMITTEES

Mr. ENGO (United Republic of Cameroon) said that the First Committee expected to complete the first phase of its work - the removal of the square brackets, alternative texts and repetitions - by the end of the week. The Committee had not yet succeeded in producing the texts and alternatives that had been hoped for; it was therefore not yet possible to begin direct negotiations. Nevertheless, work on the first 23 articles would be completed very shortly. The officers of the Committee had been trying to ascertain the extent to which opinions differed on the question of the final negotiations. The main problem was the political and economic consequences of sea-bed exploitation.

The Committee had heard UNCTAD's views on the economic consequences of sea-bed exploitation; the representative of a highly industrialized country had subsequently stated that he could not accept UNCTAD's conclusions or the premises on which they were based. The officers of the Committee had considered it appropriate, in order to make the work of the Committee more productive, to begin preliminary discussions to enable the developed countries to present their case and to allow the Committee to consider the technical and political aspects of the problem. The proposed procedure appeared to enjoy general support. He hoped that the discussions would make it possible to take political decisions on the question of exploitation.

The informal working group of the whole would present its preliminary report to the Main Committee the following day.

Mr. AGUILAR (Venezuela) said that the Second Committee, acting on a decision taken at its first meeting, was dealing with the items on its agenda one by one. It was considering a number of informal working papers prepared by the officers of the Committee and by the Chairman to identify the main trends and produce acceptable formulas. The Committee had completed its work on item 2; a revised version of the informal working paper on the item was to be issued shortly. The discussion of item 3 had been deferred because of the item's close links with other topics. The Committee had concluded its general debate on item 4; the officers of the Committee had prepared a working paper that was due to be distributed that day. It was hoped to conclude the general debate on item 5 that day and to move on to item 6. He hoped that it would be possible to complete consideration of items 2 to 7

(Mr. Aguilar, Venezuela)

by the end of the week and to prepare a working paper for each topic. If that were done, it would help to set the process of negotiation in motion and to move towards a package deal.

The Committee was aware of the limited time available and had already decided to limit the length of statements to [illegible]. Twenty-four draft articles had been received so far. The Committee would continue to hold formal and informal meetings twice a day.

With only 24 working days remaining, the Conference was working against the clock; he stressed the importance of beginning the negotiating process as soon as possible.

Mr. YANKOV (Bulgaria) said that the Third Committee had met in formal session the previous Friday to discuss the progress reports on the informal discussions on items 12, 13 and 14. A number of formal proposals had been submitted on item 12; more were expected. At the request of the Committee, the Secretariat had prepared and issued comparative tables of proposals and a report on problems of acquisition and transfer of marine technology (A/CONF.62/C.3/L.3). The Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area was also before the Committee as an illustration of some original arrangements to fight pollution.

He stressed the importance of the work done in the informal meetings and said that negotiations proper had begun in the course of those meetings.

Three meetings had been devoted to the subject of marine pollution; five out of 10 items had been reviewed with their related draft articles. As many members had wanted, the formal meetings had reviewed the work done in New York in March 1973 and in Geneva subsequently. He hoped that once the review was completed the informal meetings would lead to the production of draft treaty articles, although no common text had been agreed on as yet.

The comparative table included material on jurisdiction and enforcement. The crux of that problem in the Third Committee was the extent of the rights and duties of coastal States. The Committee's working procedure was to consider amendments to the texts before it, and its work was recorded in conference room papers. The final work of consolidation would be done by small consultation and drafting groups which, although open-ended, would consist at least of the authors of proposals.

(Mr. Yankov, Bulgaria)

Three informal meetings had been held to discuss items 13 and 14. Although the meetings had been informal, delegations had shown a keen interest: there had been 132 speakers and 13 informal proposals. The basic material for the discussion had been the proposals of Sub-Committee III of the Sea-Bed Committee in 1973, and the meetings of the Working Group in Geneva in 1973. He drew attention to the fact that there had been no proposals submitted on the acquisition and transfer of technology. He urged delegations specifically interested in the matter to submit proposals on that subject.

The over-all conclusions to be drawn from the Committee's work were: firstly, negotiations proper had begun, and the informal meetings provided an appropriate climate for them. Secondly, the main problems in the discussions referred to the extent of coastal State jurisdiction and the rights and obligations of other States. Much progress would be made if a way could be found to clear up that issue. Thirdly, although there was no need for panic, he wished to bring a sense of urgency to the Conference. Although the hopes of those representatives who had expected a complete convention in 10 weeks were bound to be frustrated, and further time was needed to generate the political will for negotiations, there was a greater need for consultations with regional groups and individual delegations, especially those submitting proposals and those holding extreme positions. Although there was a desire to accelerate the work of the Conference, the proper machinery must be provided.

The PRESIDENT observed that, having heard the reports of the Main Committees, he felt the situation was less bleak than he had feared. As the Conference approached the end of the sixth week of its work, it must take stock in order to determine how the remaining weeks were to be used and what it should seek to achieve before the end of its session in Caracas. In view of the number of issues on which there were various degrees of divergency of opinion and position, it was too much to expect that a treaty or convention could be concluded at the session. The Conference must therefore consider what alternative course it should follow. He had held consultations with the Chairmen of the three Main Committees and with various delegations and wished to suggest that the Conference should try to achieve some measure of agreement on basic issues. A statement of agreement on those issues might

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constitute the final document of the session though that statement should not be confused with a declaration of principles. Ideally, it should take the form of acceptance of certain definite texts. If that proved impracticable, the agreement should at least be stated in precise terms and, as far as possible, in treaty language. For that purpose, the Committees should be given as much time as possible to secure agreement on fundamental issues; at the appropriate moment, the President, in consultation with the Chairmen of the three Main Committees, should present to the Conference a statement of agreement of fundamental issues. It would be most desirable to secure acceptance of any text by general agreement. The Committees would have to decide how to deal with alternative texts. Any decision taken at that stage would be subject to review by delegations in the light of their success in securing acceptance of their position on other issues.

There were certain problems for which it was impossible to devise a uniformly applicable rule. It would therefore be practical to devise a rule which would be basic to all situations but which allowed for regional arrangements to be made to suit special situations and circumstances. He commended that procedure to the Conference as one that would enable it to achieve some tangible results, not only by demonstrating to Governments that delegations were seriously intent on preventing a loss of momentum, but also by securing a document which would provide the basis for the resumption of the Conference's work and negotiations at the following session. It would also be a clear indication to international public opinion that a conscientious effort had been made in Caracas to promote agreement and to advance towards the conclusion of a generally acceptable convention.

If the measure of agreement and degree of progress he had in mind could be attained in Caracas, there was every prospect of concluding the final treaty or convention at the following session, which, it had been suggested, might be held in the spring, rather than in July or August, of 1975.

GENERAL STATEMENTS (continued)

Mr. TEMPLETON (New Zealand) observed that his delegation had not participated in the general debate. He now wished to introduce, as a member of the New Zealand delegation, the Prime Minister of the Cook Islands, a territory closely associated with New Zealand. Although the Cook Islands were self-governing, they maintained very close links with New Zealand. The territory was moving towards complete independence and had its own views on the matters being discussed by the Conference.

Sir Albert HENRY (New Zealand) said that he was impressed by the consideration that the Conference was giving to the developing countries, but he also felt some concern as to whether the circumstances of small island countries such as his own were fully appreciated by those who had the influence and strength to decide the matters before the Conference.

The Cook Islands consisted of 15 small islands scattered over the South Pacific, several hundred miles east of Fiji, Tonga and Western Samoa and west of French Polynesia, thousands of miles south of the Hawaiian Islands and nearly 2,000 miles north-east of New Zealand. Its total area was 93 square miles and its population 22,000.

Until it became self-governing on 4 August 1965, under the auspices and with the approval of the United Nations, his country had been administered by New Zealand, to which it was very grateful. It had chosen to continue an association with that country, under which New Zealand had responsibility for its external affairs and defence, but in consultation with it. That arrangement could be altered unilaterally by the Cook Islands at any time. His Government was considering whether to take further steps towards full independence; but the present position of his country on the matters before the Conference should not differ in any way from the position it would take if it were a fully independent sovereign State. His country was proud to be self-governing in a free association with New Zealand: it was not under anyone's domination or control. The Cook Islands should therefore have the same benefits as sovereign States with regard to the economic zone.

The greatest drawback to his country's development had been its geographic position: a group of tiny islands scattered over the Pacific Ocean, remote and isolated. Communications and transport were difficult and expensive and hampered trading and economic development. The land mass was small and there were no minerals or similar products which could be used commercially to develop the economy.

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(Sir Albert Henry, New Zealand)

The sea was as important as the land to the people of small Pacific islands, particularly on islands of coral atoll formation where there was very little soil or vegetation. Nearly half the Cook Islands were such atolls, although the principal island, Rarotongo, was volcanic in origin and contained good arable land. The sea provided the only source of protein, the bulk of the food, and a small income from pearl shell and fish.

His Government realized that the sea could become a dominant factor in the development of the country's economy. Despite a significant increase in the budget, reliance on external aid had decreased from about 80 per cent in 1965 to about 40 per cent at present. With the right of free entry into New Zealand, however, his country had lost 14,000 of its population - apart from the 22,000 still living in the islands. The sea might offer the only chance of attracting people back by strengthening the country's economy and broadening its economic base.

A small-scale commercial fishing industry had recently been started, but demands within the islands would have to be met before the sale of fish overseas could be considered. With virtually no continental shelf, feeding grounds and the density of fish were relatively limited.

Advances in technology, however, might facilitate the discovery and extractions of minerals from the sea-bed round the islands, in which case it would be only just for the Cook Islands to receive the benefits. In view of the many hundreds of miles separating the Cook Islands from its nearest neighbours, an economic zone of 200 miles round each island would not give rise to any significant problems with its neighbours. His country strongly supported the concept of such an economic zone.

It would be unfair and inequitable to limit the size of his country's economic zone by reference to its land mass or population, both of which were very small by world standards; but the Cook Islands had been recognized as a self-governing country by the United Nations and should therefore be treated as the equal of much larger countries. He hoped that the Conference would pay special attention to small island countries. In appealing for recognition of their position, he included his neighbours in the Pacific, some of which were not directly represented at the Conference. Those countries, like his own, were dependent on the sea: it did not seem reasonable that they should also be deprived of the full benefits of an economic zone.

(Sir Albert Henry, New Zealand)

He hoped that special consideration would also be given to countries in Africa, Asia and Latin America which - as he had learnt from attending the Conference - suffered the same problems as his own country, and that means would be found to ensure that they received a fair share of the seas' resources.

Mr. POPPER (Assistant Director-General (Fisheries) of FAO) said that he was grateful for the opportunity of addressing perhaps the greatest and most important United Nations Conference ever convened.

He proposed to speak about two matters of concern to FAO and to the Conference: first, the state and prospects of world fisheries and, secondly, the activities of FAO and other international organizations in furthering rational utilization of fishery resources and ensuring their full contribution to world nutrition and economic development.

His organization had presented a detailed report on the exploitation of world fish resources to the Sea-Bed Committee in 1973, and that document, revised and updated, would be distributed to participants of the Conference under the title "Review of the Status of Exploitation of the World Fish Resources". It contained detailed statistics for marine and inland stocks for 1972, the last year for which complete statistics were available.

The over-all statistics showed a decline in marine catches from over 60 million tons in 1970-71 to 56 million tons in 1972. The estimated figure for 1973 was 54 million tons. The 10 per cent drop between 1970-71 and 1973 reflected a dramatic decline in the catch of Peruvian anchoveta from 13.1 million tons in 1970 to 4.8 million in 1972 and 2.3 million in 1973. Energetic conservation measures by the Government of Peru seemed, however, to be bringing about recovery.

The world catch of other marine fish had increased by 8 per cent from 47.6 million tons in 1970 to 51.4 million in 1972. The majority of fisheries of more attractive stocks - e.g. larger demersal species, lobster, shrimp, tuna, etc. - were probably fully exploited, but the number of seriously depleted stocks was quite small. Whales and other marine mammals were endangered because of their slow reproductive rate. There was also depletion of stocks where one species had been heavily exploited and replaced by another competing species.

In the case of Alaska pollock in the north Pacific and mackerel in the north-west Atlantic, catches were now approaching the tolerable limits. Exploitation in the south-west Atlantic and in the Arabian Sea could be expanded. /...

(Mr. Popper, FAO)

Estimates made in 1965 for the Indicative World Plan showed the annual potential yield of conventional marine species of fish, crustaceans and molluscs to be 118 million tons. The world catch had then been 43 million tons, or 36 per cent of the estimate. By 1972, 50 per cent of the potential had been harvested, leaving room for substantial increases, except in the case of fully or over-exploited stocks.

Increases would depend on technological progress in locating and catching currently unexploited stocks. New or modified products from such catches had to be introduced. Fish farming, which already accounted for 5 million tons annually, was also promising. Coastal aquaculture and intensified fish culture in inland waters should make it possible to increase production tenfold in three decades. Research was needed to improve techniques, adequate finance, personnel training and over-all planning were required; and protection of coastal waters from pollution was essential.

Considerable gains could be made by avoiding waste both at the catching stage and during the handling and distribution processes, and FAO was giving increased attention to those problems.

The role of FAO was to promote international co-operation in the rational management of living resources. Many major fisheries were of international concern, either because the fishing took place on the high seas, or because the fish moved between areas under different national jurisdictions. Those aspects were of special interest to FAO as the United Nations specialized agency responsible for the conservation, sound management and development of marine living resources. FAO had established regional fishery commissions in areas where coastal States were predominantly developing countries.

Development was inseparable from management. FAO was accordingly expanding the activities of its fishery commissions to help developing countries increase their fishing capability and strengthen their industries. Three regional development programmes - in the Indian Ocean, South China Sea and East Central Atlantic - had been launched with assistance funds provided by the United Nations Development Programme.

Regional fishery bodies had been established outside FAO in the Atlantic and Pacific Oceans, and FAO co-operated with them in the rational management of fish stocks.

(Mr. Popper, FAO)

The governing bodies had promoted co-ordination among the commissions to study interactions between fisheries and to eliminate diversion from one area to another. Effective régimes in adjacent areas facilitated enforcement and sound management.

In 1965, FAO had established the Committee on Fisheries as a world-wide intergovernmental forum. Each year the Committee reviewed international fishery problems and considered possible solutions through concerted action. Since 1971, for a trial period of four years, membership of the Committee was open to any interested FAO member countries. The Committee had considered its possible future responsibilities, and decided at its [illegible] session that, after the four-year trial period and in the light of the Conference's results, it would review its structure, status and functions.

The Conference of FAO, at which over 130 member States were represented, had noted that FAO must play an increased role in management problems and in assistance to countries and regional fishing bodies. Partial implementation in the technical sphere need not await the conclusions of the Conference of the Law of the Sea. The FAO Committee had postponed its annual session so that it could take into account the Conference's results.

Close co-operation had been established between FAO and the Sea-Bed Committee and he hoped that that co-operation would now be continued as between FAO and the Conference, for which FAO would be happy to provide information or documentation.

INTRODUCTION OF WORKING PAPER A/CONF.62/L.4

Mr. TUNCEL (Turkey) said that he assumed that all delegations had seen document A/CONF.62/L.4. If that document was submitted to the plenary Conference for discussion, he would have to raise a point of order. It should be referred to the Second Committee without examination. Discussion of such a document in the plenary would result in unnecessary duplication.

The PRESIDENT said that document A/CONF.62/L.4 was being introduced in the plenary Conference because the subjects it covered did not fall exclusively within the mandate of any one of the three Main Committees. The document would be formally introduced and then referred to the Second Committee.

(The President

He asked the representative of Turkey if he wished to raise his point of order at the present stage.

Mr. TUNCEL (Turkey) said that he would prefer to wait until the matter had been discussed before deciding whether it would be necessary.

The PRESIDENT said that there could be no discussion of the matter.

Mr. BAKULA (Peru), speaking on a point of order, suggested that the President should ask the sponsors of the working paper whether, in view of the situation that had arisen, they might not consider it more appropriate to discuss it in the meeting of the Second Committee scheduled to follow the present plenary meeting.

Mr. BEESLEY (Canada) said that the President himself had pointed out that the document was beyond the scope of any one Committee. The protection and preservation of the marine environment, for example, and scientific research were matters for the Third Committee. Introducing it in the Second Committee might also give rise to a procedural discussion. It was precisely because the document was based on an integrated approach and raised fundamental questions for each Committee that he had asked to present it in the plenary meeting. He had no objection to a point of order and a ruling by the President, or even a vote, provided the question was settled without delay.

Mr. KNOKE (Federal Republic of Germany), raising a point of order, moved that the document should not be introduced or discussed in the plenary meeting as it was a subject for the Second Committee.

The PRESIDENT, in accordance with rule 25 of the rules of procedure (A/CONF.62/30/Rev.1), ruled that the introduction of document A/CONF.62/L.4 in the plenary meeting was in order, but that there should be no discussion or examination of it in that forum. His reasons were that any delegation had the right to choose the forum in which it introduced a proposal. Proposals, in strict constitutional terms, should be made to the Conference, despite the fact that subjects and issues were assigned to the Main Committees. That was an act of delegation by the Conference: it indicated the precise subsidiary organ of the Conference to which proposals should be referred but did not extinguish the right to which he had referred. If a proposal was introduced

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(The President)

in the Conference, the Conference took the decision to refer it to the appropriate subsidiary organ. If a delegation chose, for reasons of convenience or other reasons, to introduce a proposal in the first instance in a Committee, it was free to do so. The procedure to be followed in the present instance should not be regarded as a special privilege extended to the sponsors of document A/CONF.62/L.4: it would be extended to others who wished it to be applied to their proposals. He could only appeal to delegations to exercise discretion and restraint in resorting to that procedure. In that connexion he felt that the observations made by the representatives of Turkey and Peru were not without merit, especially in view of the limited time available and the paramount necessity of avoiding any encroachment on the time of the Main Committees, where the principal burden of responsibility for hammering out a convention rested.

Mr. KEDADI (Tunisia) appealed against the President's ruling.

The PRESIDENT said that, in accordance with rule 25 of the rules of procedure (A/CONF.62/30/Rev.1), he would put the appeal to the vote.

At the request of a number of representatives, a vote was taken by roll-call on Tunisia's appeal against the President's ruling to allow the representative of Canada to introduce working paper A/CONF.62/L.4 at the plenary meeting.

Somalia, having been drawn by lot by the President, was called upon to vote first.

In favour: Sudan, Thailand, Togo, Tunisia, Turkey, Uganda, Ukrainian SSR, Union of Soviet Socialist Republics, Albania, Algeria, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Byelorussian SSR, Cuba, Czechoslovakia, Dahomey, Ecuador, El Salvador, France, Gambia, German Democratic Republic, Germany (Federal Republic of), Hungary, Iran, Iraq, Italy, Japan, Luxembourg, Madagascar, Mongolia, Morocco, Peru, Poland, Romania, Singapore

Against: Somalia, South Africa, Spain, Swaziland, Sweden, Tonga, Trinidad and Tobago, United Kingdom, United Republic of Cameroon, United States of America, Venezuela, Western Samoa, Yugoslavia,

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Argentina, Australia, Bahamas, Botswana, Burma, Canada, Chile, China, Colombia, Costa Rica, Cyprus, Dominican Republic, Egypt, Fiji, Ghana, Greece, Guatemala, Guinea, Guyana, Iceland, India, Indonesia, Ireland, Israel, Laos, Lesotho, Mali, Mauritius, Mexico, New Zealand, Nicaragua, Nigeria, Norway, Panama, Philippines, Senegal, Sierra Leone

Abstaining: Sri Lanka, Switzerland, United Republic of Tanzania, Upper Volta, Uruguay, Zaire, Zambia, Afghanistan, Austria, Bahrain, Bhutan, Bolivia, Burundi, Congo, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Ethiopia, Finland, Honduras, Ivory Coast, Jamaica, Kenya, Khmer Republic, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Malaysia, Malta, Mauritania, Nepal, Netherlands, Pakistan, Paraguay, Portugal, Qatar, Republic of Korea, Republic of Viet-Nam

The Tunisian appeal against the President's ruling was rejected by 50 votes to 38, with 39 abstentions.

Mr. BEESLEY (Canada), introducing the working paper sponsored by the delegations of Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway (A/CONF.62/L.4), said that it embodied a broad conceptual approach to the fundamental problems of the law of the sea and was intended as a framework for discussion. The paper was being introduced in plenary not only because the subject went beyond the mandate of any one Committee, but also, and perhaps more compellingly, because the half-way point of the Conference had come without agreement having been reached on a single draft article. The working paper was being put forward as a possible basis for negotiations.

The countries which had sponsored the working paper were from widely separated geographical regions and their approaches covered a broad spectrum of views on the basic issues facing the Conference. Although all the sponsors were coastal States, their concerns were diverse: some had important shipping interests and others no mercantile fleet; some were dependent upon their coastal fisheries and others fished in distant waters; some had broad continental shelves and others no geological shelves; some had for many years adhered to the 200-mile limit and others to the 12-mile limit; and some were wholly archipelagic while others were not. Most important of all, the group of sponsors included both developed and developing countries.

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(Mr. Beesley, Canada)

While a broad range of interests was represented in the working paper, the sponsors nevertheless recognized that there were other interest groups with which negotiations should begin as soon as possible. They wished to stress that the document was not intended to replace any of the proposals they had made earlier in the Conference, was being presented without prejudice to their declared positions and did not necessarily reflect their final positions.

It was the view of the sponsors and of many other delegations which he had consulted that, if the Conference was to produce any concrete results, certain broad trends evident in the deliberations of the Sea-Bed Committee and the discussions at the Conference should be reflected in the form of basic articles on which agreement should be sought before the end of the session. It was for that reason that the sponsors had attempted to reflect in the paper the fundamental concepts which would ultimately be embodied in the future Convention on the law of the sea.

The point of departure of the sponsors and those with whom they had collaborated was that the existing law of the sea was incomplete, inadequate and anachronistic. Indeed, there seemed to be general agreement among the States represented at the Conference that there must be a radical restructuring of existing law in order to ensure a peaceful world and to avoid the further deterioration of the present chaotic situation of conflicting claims, counter-claims and disputes.

The present law of the sea was based on two seemingly mutually exclusive principles, namely the principles of sovereignty and of freedom of the high seas. While it was obvious that neither of those principles could be abandoned entirely, it was equally clear that a law of the sea based solely on those principles no longer sufficed. It was the firm conviction of the sponsors of the working paper that the law of the future must be based on new and imaginative concepts, such as the economic zone, the patrimonial sea and the common heritage of mankind while at the same time retaining those principles which were still relevant in today's world.

The working paper was based on the principle of the 12-mile territorial sea linked organically to an economic zone or patrimonial sea extending 200 miles from the baselines of the territorial sea. Thus, the traditional concept of a relatively narrow territorial sea was retained, but it was linked to an extension of the coastal State jurisdiction, as reflected in the economic zone and patrimonial sea proposals. Those proposals each embodied three fundamental jurisdictions essential to the coastal

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(Mr. Beesley, Canada)

Those in today's world: sovereign rights over the living resources of the sea, sovereign rights over the sea-bed, and the essential rights and duties required for the preservation of the marine environment. In addition to those three basic forms of jurisdiction, the two proposals also embodied the concept of coastal State regulation of scientific research within the economic zone or patrimonial sea. The working paper was based upon that economic zone-patrimonial sea concept.

Another major trend which was developing at the Conference was reflected in the paper, namely the doctrine of archipelagic waters both for oceanic archipelagos and for coastal States with off-lying archipelagos. As in the case of the economic zone-patrimonial sea concept, only the basic principles were spelled out. It would be noted, for example, that while the principle of innocent passage through archipelagic waters was embodied in the draft articles, further articles would be required to spell out the precise régime and rules of passage through specified sea-lanes of the archipelagic waters, which the sponsors felt should be left in abeyance so as not to prejudge the manner in which the closely related issue of the rules of passage through international straits would be resolved.

With a view to maintaining relevant aspects of the principle of the freedom of the high seas, certain articles were directed to ensuring the necessary freedom of navigation in the economic zone-patrimonial sea, subject to the exercise of coastal States of their rights within the area. Further articles had been included to protect other users of the sea, on the one hand, and the coastal State, on the other hand, from interference with the exercise of their respective rights in that area.

With regard to the reservation of the sea-bed for peaceful purposes - a question exclusively within the mandate of the plenary - article 18 provided that the coastal State would ensure that any exploration and exploitation activity within its economic zone was carried out exclusively for peaceful purposes. Further articles would be required in respect of the economic zone on such issues as fisheries and the preservation of the marine environment.

The doctrine of the continental shelf, which was dealt with in article 19 of the working paper, reflected customary, as well as conventional, international law. It was both a legal and geomorphological concept and article 19 was intended as a basis of discussion to replace the elastic and open-ended exploitability criterion. The sponsors had drawn on the language of the 1969 decision of the International Court of

(Mr. Beesley, Canada)

Justice (ICJ) in the North Sea Continental Shelf Case. Although they were fully aware that some States had questioned the acquired rights of coastal States to the edge of the continental margin, they believed that it would be unrealistic and inequitable to ignore the legal position of coastal States which had long ago established their sovereign rights to the edge of the continental margin through State practice, legislation, the issue of permits, bilateral agreements and even incorporation into their constitution. The ICJ decision was significant in that it referred to the natural prolongation of the land territory of the coastal State in more than half a dozen cases. For States which had legislated to that effect, the issue was one of territoriality and national integrity. Without prejudice to further negotiations on the question of the delimitation of the continental shelf, the sponsors of the working paper had considered it essential to include article 19.

In the working paper, the sponsors had recognized the need for equitable rights of access for nationals of developing land-locked and geographically disadvantaged States to the living resources of the exclusive economic zones of neighbouring coastal States and would shortly be presenting articles to that effect. Before doing so, they hoped to receive the views of the land-locked and geographically disadvantaged States themselves.

Throughout the paper a functional approach had been adopted to each of the issues facing the Conference. It was quite clear that none of those basic issues would be resolved unless there was negotiation in good faith with the objective of reaching equitable solutions, acceptable to all. The sponsors were not suggesting that the working paper provided the total answer to all the problems facing the Conference. They did, however, feel very strongly that there could be no successful Convention which did not reflect in one way or another the basic approach embodied in the working paper, an approach shared by a very large number of States.

Mr. ZEGERS (Chile) said that the working paper introduced by the representative of Canada was intended to provide the Conference with formulations on some of the main issues to be resolved. Its main purpose was to facilitate agreement and to make it possible, if generally approved, to sketch out a political solution which would be a package deal. If the articles proposed in the working paper (A/CONF.62/L.4) were supplemented by provisions relating to the international sea-bed

régime, straits used for international navigation and the high seas, all the main issues facing the Conference would be covered.

The working paper - which reflected a wide range of interests - defined the three areas of national jurisdiction, namely, the territorial sea, the economic zone and the continental shelf. He would confine his observations to the second of those areas.

The economic zone or patrimonial sea was an area within the jurisdiction of the coastal State, over which the coastal State exercised sovereign rights of a mainly economic nature up to a distance of 200 miles, without prejudice to the freedoms of navigation and overflight. Chile had been the first State to proclaim such a zone in 1947 and had reaffirmed its jurisdiction over the 200-mile area in the Declaration of Santiago of 1952.

In the economic zone, which would extend for 188 miles beyond the outer limits of the territorial sea, the coastal State would exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed and subsoil and the superjacent waters. The language used in the working paper was very similar to that employed in the Convention on the Continental Shelf and reflected the notions of exclusive jurisdiction and control by the coastal State for specific purposes. The draft articles also referred to such rights and duties of the coastal State in the economic zone or patrimonial sea as the preservation of the marine environment, the conduct of scientific research and the power to authorize artificial installations. Under article 14 of the working paper, freedom of navigation and overflight would be subject to the exercise by the coastal State of its rights within the area.

The concept of the exclusive economic zone must be integrally preserved if it was to be internationally acceptable. If diluted, it would not satisfy the vast majority of States.

As the representative of Canada had explained, the sponsors had recognized in the working paper the need to provide for equitable rights of access for nationals of developing land-locked and geographically disadvantaged States. They proposed that the future Convention should delineate the general principles of such access and leave the details to be worked out in regional, subregional and bilateral agreements.

(Mr. Zegers, Chile)

The representative of Canada had already outlined the scope of the articles on the continental shelf, which was defined on the basis of legal and geomorphological criteria. That definition reflected the criterion of exploitability, which was part of international customary law, and the acquired rights it connoted.

Articles 8 and 10 of the working paper expressly provided that the legal régime of the archipelagic States should not affect the established régime concerning coastlines deeply indented and cut into and the waters enclosed by a fringe of islands along the coast. Article 4, which also referred to that régime, was substantially the same as its counterpart in the Geneva Convention on the Territorial Sea and the Contiguous Zone.

Mr. ENGO (United Republic of Cameroon) said that his delegation had had the impression that the question under discussion was the right to issue document A/CONF.62/L.4 and the right of the Canadian representative to make a brief introductory statement, on the understanding that there would be no debate and that the document would be referred to the appropriate Committees. There now appeared to be a list of speakers, namely the sponsors of the document, and despite the President's ruling, there seemed likely to be a one-sided debate. Could the President assure his delegation that there would be no more statements at the present meeting and that the sponsors would speak in the Committees?

The PRESIDENT said that he, too, was dismayed at the turn of events. He could not refuse the other sponsors the right to speak, but he appealed to them to make their statements in the appropriate Committees and not to speak at the present meeting.

Mr. YANKOV (Bulgaria) said that he agreed with the views of the representative of the United Republic of Cameroon. He also asked the President whether he intended to allow introduction and discussion in the plenary meeting of the additional articles referred to in the foot-notes to articles 7, 13, 18 and 19 of the document.

Mr. EVENSEN (Norway), Mr. TEMPLETON (New Zealand), Mr. JAGOTA (India), Mr. TELLO (Mexico), Mr. GAYAN (Mauritius), Mr. ANDERSEN (Iceland) and Mr. ANWARSANI (Indonesia) consented, in the light of the appeal by the President, to withdraw their names from the list of speakers on the understanding that they would be free to make statements on the draft articles when they were considered in the Second Committee.

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Mr. BEESLEY (Canada), replying to the question raised by the Bulgarian representative, said that the sponsors would introduce in the plenary the various additional articles referred to in the working paper only if more than one Committee was involved.

The PRESIDENT, in replying to a question put by the representative of Gambia, said that there would be no discussion of the draft articles in document A/CONF.62/L.4 until the Second Committee had considered them.

INVITATION TO NATIONAL LIBERATION MOVEMENTS RECOGNIZED BY THE ORGANIZATION OF AFRICAN UNITY OR BY THE LEAGUE OF ARAB STATES TO PARTICIPATE IN THE CONFERENCE AS OBSERVERS (continued)

Mr. CISSE (Senegal) requested that the Seychelles Democratic Party, a national liberation movement recognized by the Organization of African Unity, should be asked to participate in the Conference. He said that its name had been inadvertently omitted from the list drawn up previously.

The PRESIDENT said that the Secretariat had noted the Senegalese representative's request and would comply with it.

The meeting rose at 1.15 p.m.

UNITED NATIONS

Press Section
Office of Public Information
United Nations, N.Y.

(FOR USE OF INFORMATION MEDIA — NOT AN OFFICIAL RECORD)

Press Release SEA/96
30 July 1974

LAW OF SEA CONFERENCE RECEIVES PROPOSAL BY PRESIDENT ON ORGANIZATION OF WORK, PROGRESS REPORTS FROM COMMITTEES, NINE-POWER DRAFT ARTICLES

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The President of the Third United Nations Conference on the Law of the Sea, Hamilton Shirley Amerasinghe (Sri Lanka), yesterday morning, 29 July, suggested that the Conference seek to reach agreement in Caracas on basic issues facing the Conference.

"This statement of agreement must not be confused with a declaration of principles", he added, speaking at a plenary meeting of the Conference. (For the text of his proposal, see Press Release SEA/97 of today's date.)

The Conference also heard yesterday morning statements by the Prime Minister of the Cook Islands, Sir Albert Henry, and the representative of the Food and Agriculture Organization (FAO), Frederick Popper.

Also, a set of proposed articles on the territorial sea, archipelagic States, economic zone and continental shelf was presented by nine countries: Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway.

The Conference also heard reports on the progress of its three main Committees.

Regarding the progress of work in Committees, the Conference heard the following reports:

Paul Bamela Engo (United Republic of Cameroon), Chairman of the First Committee (sea-bed regime and machinery): The Committee expected to conclude the second phase of its work by the end of this week so that it was not appropriate for him to give more details at the moment. It was polishing details that would enable it to draw up alternate texts, on which negotiations could begin immediately thereafter. Controversial topics remained, including the economic and social consequences of sea-bed exploitation, but he still hoped that delegations would continue to co-operate fully in order to reach general agreement.

(more)

Andres Aguilar (Venezuela), Chairman of the Second Committee (general aspects of sea law): His committee had examined, one by one, a number of the topics assigned to it as well as the informal working papers prepared by its officers. The object of those papers was to define the various trends on each topic which emerged from the debate.

The Chairman of the Second Committee reported that the discussion on the territorial sea had concluded in his Committee and a preliminary report would be distributed shortly. He also announced that another similar document on the topic of straits was near completion and would be distributed later yesterday.

Next week, he said, the Second Committee would conclude discussion on all the items on its agenda. He emphasized that there was full awareness of the limitations of time and consequently the Committee would meet twice a day and limit statements to 15 minutes each.

Alexander Yankov (Bulgaria), Chairman of the Third Committee (marine environment, research and technology): He reported that the Committee had already received several formal proposals and underlined the importance of the working sessions which had already examined five of the 12 items on pollution. He deplored the fact that until now there had been no proposals on the transfer of technology. On that he pointed out that, at the request of the Committee, the Secretariat had distributed a study referring to the acquisition and transfer of technology.

He explained that in the course of forthcoming meetings, questions related to the economic exploration and exploitation of resources would be reviewed. He added that there existed the will to speed up work in the hope of arriving at concrete results. In that sense, he pointed to the optimistic attitude existing among the Committee's participants. "There exists a spirit of goodwill," he emphasized.

Sir Albert Henry (Prime Minister of the Cook Islands): In his first participation during the Conference as an associate State of New Zealand, he stated that his country could be considered as a geographically disadvantaged State. He supported the recognition of a 200-mile economic zone for the Cook Islands even though those islands could not be considered an archipelagic State.

Frederick Popper (Assistant Director-General of FAO): He described the world fisheries situation as well as the activities of FAO in its efforts to achieve a rational use of fisheries resources. He listed statistics which reflected a decrease in marine fishing, from 60 million tons a year in 1971 to 54 million tons in 1973 due mainly to the drop of Peruvian anchovies from 13 million tons in 1971 to 2.3 million tons in 1973.

(more)

Press Release SEA/96
30 July 1974

Regarding the presentation of a working document, sponsored by Canada and eight other countries, at the Conference, a lengthy discussion on procedure resulted, since several delegations, principally Turkey, Tunisia and the Federal Republic of Germany, were opposed to the fact that the document had been submitted directly to the Conference and not the Second Committee. On a point of order, Tunisia requested formally that the document not be presented to the Conference.

President Amerasinghe, basing his opinion on article 25 of the rules of procedure, decided to accept the presentation of the item in the plenary with the understanding that there would be no debate on the document but only its formal presentation. He added that all delegations had the right to choose what organ of the Conference they wished to present their proposal to, without curtailing the possibility that the Conference remit it to the corresponding Committee for debate.

The representative of Tunisia accepted the President's ruling. The Conference, in a roll-call vote, ratified the President's ruling, 50 votes in favour to 38 against, with 39 abstentions.

J. Alan Beesley (Canada): The document was intended only to note the beginning of the negotiating process in the Conference. If one were to arrive at concrete results, it was essential that the principal trends should be clearly separated, and those, in turn, should be included in the basic articles which would have to be approved before the Conference concluded.

The draft articles would include, in addition to the classic principles of sovereignty and freedom of the seas, the concepts of economic zone, territorial sea and the common patrimony of humanity. With regard to the continental shelf, that concept was reflected in the Geneva Convention of 1969, and in the case of the continental shelf of the North Sea. Lastly, the need was recognized of granting equal right of access to the living resources of the economic zones for land-locked countries.

Fernando Zegers (Chile): The document his country co-sponsored was to be understood as a contribution that could serve as a package so that from it could rise agreements on the basic items of the Conference. The document recognized what could be called the "trilogy of national jurisdiction": territorial sea, economic zone and continental shelf.

The representative of Senegal asked, on behalf of the Organization of African Unity, that the Democratic Party of the Seychelles be granted the status of observer at the Conference, since it was a liberation movement on that island. The President accepted the request.

The President's proposal on the organization of the work of the Conference was expected to be discussed at a plenary meeting scheduled for today, 30 July.

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UNITED NATIONS

Press Section
Office of Public Information
United Nations, N.Y.

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Press Release SEA/68
17 July 1974

PRESIDENT OF LAW OF SEA CONFERENCE HOLDS PRESS CONFERENCE ON 16 JULY

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

At a press conference held in Caracas on the morning of 16 July, the President of the Third United Nations Conference on the Law of the Sea, H. Shirley Amerasinghe (Sri Lanka), said that the Conference on 15 July had wound up its initial stage of formulation of general statements made by 115 States. This stage had considerably served the participating countries in clarifying their position regarding the forthcoming discussions of the Conference.

Mr. Amerasinghe also referred to the work being carried out by the three committees on their agenda items. The First Committee, he explained, will examine topics that refer to the exploration and exploitation of the sea-bed and the international authority which would administer that function.

The President declared that there was very broad agreement on the creation of such an organ, but its structure and powers were still subject to debate. Regarding this, there were two positions -- some considered that it should only issue exploitation licences to third parties in the zones under its jurisdiction; other believed it should have full administrative and executive powers and be able to carry out the exploitation of resources on its own, through mixed enterprises or through concessions to third parties. This second position appeared to have broad backing.

The Second Committee, he said, appeared to have reached some agreement in reference to the 12-mile territorial sea and an economic zone of 200 miles. Within this zone, the right of free passage was contemplated. The sovereignty of the coastal State over the resources of its economic zone appeared to be generally accepted.

The President said that land-locked States and those with no continental platform were asking for preferential rights regarding the resources of the international zone. The matter of archipelagos had also been raised. The representative of Indonesia had expressed that the lands and waters that constituted an archipelago should be considered a single entity. This brought up a series of problems which would be examined by the Committee.

Regarding the Third Committee, Mr. Amerasinghe said that it had already started to examine the questions of marine pollution, scientific research and transfer of technology. The problem of pollution, generally speaking, had been considered fundamental in the deliberations of the Committee, and a majority of States seemed to agree that regional and international norms be established to avoid and combat it. Also, there was general agreement that scientific research should be free and shared by all, although subject to the control of the coastal State. This control still had to be defined. On the matter of technology, the widely held opinion was that those countries which possessed it should share it with the developing countries.

In answer to questions, Mr. Amerasinghe said that the proposed international authority could become an institution of considerable economic strength, but it would serve humanity and the developing countries. It would have no political authority, and, in that sense, it was not possible to compare it to a multinational company; it would also be unfair to say that it could turn into an entity of greater importance than the United Nations.

The income obtained by the international sea-bed authority would, in the first place, be dedicated to cover administrative expenses of the new institution; the distribution of its income should be based on the principle that the resources would benefit all of humanity, keeping in mind the needs of the developing countries. In fact, the idea consisted of reducing the gap between rich and poor countries. The international authority, as a force at the service of humanity, would have no need of naval forces since it was dealing with peaceful activities.

The Conference was now at its most significant stage; the initiation of discussions and negotiations that sought to reduce differences had arisen; and these tended diminishing as the Conference reached the stage of discussing nuances.

Regional groups, he added in response to another question, adopted different methods, in accordance to specific cases, for the discussion and search of common positions. In certain cases, the task of these regional groups consisted of resolving differences existing among themselves; this was particularly important in the case of the Group of 77, which included the majority of countries participating in the Conference.

Regarding the rights granted the national liberation movements, the President explained that, as ovservers, those movements had the right to make verbal statements and formulate proposals by writing within the committees, but did not have the right to vote.

(more)

On the problem of pollution caused by hydrocarbon wastes and wastes originating in industry and transport, he stated that, indeed, this was a matter of great importance and it should be examined by the Third Committee jointly with the other pollution problems that were encompassed by its agenda. The Committee would make recommendations to States to adopt preventive measures based upon internationally-accepted norms.

The Conference, he said, should also broach the matter of solving controversies and determine what organ will be charged with handling them and what would be its specific areas of competence. The President noted that, if it were true that no State is juridically bound by a convention it has neither signed nor ratified and if the future convention were to be ratified by the majority of States, the minority could ignore it by relying on its own superior strength.

In answer to another question regarding recent events in Cyprus, Mr. Amerasinghe pointed out that this problem involved only the Government of that country; eventually, it would be up to the Credentials Committee to take a decision should the question of representation arise.

Regarding the question of the right of free passage through straits, he explained that those countries which claimed it did not exclude the right of coastal States to regiment it; what they did not want was that free passage should be precisely defined, he said.

On the matter of the 200-mile economic zone and the commitment of the coastal States to grant licenses to foreigners, there were opposing opinions. Those who firmly maintained the economic zone concept said they had the right to grant or to refuse exploitation licenses. But there were also opinions claiming that priority be granted to developing and land-locked countries; still another position pointed out that coastal States could not possibly exploit all the resources of that zone and that foreign entities should be permitted to participate in their exploitation.

Finally, Mr. Amerasinghe commented that there was generalized opinion to grant land-locked countries access to and from the sea and to give them the benefits derived from the common heritage of mankind. In this respect, a solution could consist in affirming the juridical principle and to permit bilateral negotiations for the resolution of concrete aspects of the matter.

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UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

PROVISIONAL

For participants only

A/CONF.62/BUR/SR.3
25 July 1974

ORIGINAL: ENGLISH

Second Session

GENERAL COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE THIRD MEETING

Held at the Parque Central, Caracas
Monday, 22 July 1974, at 9.20 a.m.

Chairman: Mr. AMERASINGHE (Sri Lanka)

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Corrections to this record should be submitted in one of the four working languages (English, French, Russian or Spanish), preferably in the same language as the text to which they refer. Corrections should be sent in quadruplicate within three working days to the Chief, Documents Control, Room 9, Nivel Lecuna, Edificio Anauco, and also incorporated in one copy of the record.

AS THIS RECORD WAS DISTRIBUTED ON 25 JULY 1974, THE TIME-LIMIT FOR CORRECTIONS WILL BE 1 AUGUST 1974.

The co-operation of participants in strictly observing this time-limit would be greatly appreciated.

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PROGRESS REPORTS BY THE CHAIRMEN OF THE MAIN COMMITTEES

Mr. ENGO (United Republic of Cameroon), Chairman of the First Committee, reporting on the progress made by that body, said that it had now concluded a type of general debate enabling delegations non-members of the Sea-Bed Committee to express their views on outstanding problems and providing an opportunity for the remaining delegations to state their current views on those problems. About 80 speakers had participated in the debate.

The Committee now had moved to the second stage of its work, namely the holding of informal meetings in order to clarify the misgivings of delegations concerning documents circulated after the Geneva session, and to remove as many square brackets as possible, leaving those alternatives that would be the subject of negotiations at a later stage. While he could not yet confirm that the Committee was making progress, he could state that it was making a maximum effort.

Mr. AGUILAR (Venezuela), Chairman of the Second Committee, said in his progress report that, in accordance with the decision taken at the first meeting of that body, the items assigned to it were being considered one by one in the order in which they appeared in the list. The intention was, in the case of each item, to identify the principal views and reduce them to generally acceptable formulas. Each item was then "put on ice", without any decision being taken until all closely related items had been considered.

After a brief general debate, the Committee had begun its substantive work with the consideration of item 2, on the territorial sea. He had subsequently prepared, in consultation with the other officers of the Committee, an unofficial working paper on that item. That document, which had been revised in the light of comments by certain delegations would, it was hoped, represent the first of a series of documents on the items before the Committee, for discussion in informal meetings.

The Committee had then taken up item 3, on the contiguous zone; it had decided to defer the item until after the consideration of item 6, on the exclusive economic zone, with which it was closely related.

In its first meeting of the current week, the Committee would take up item 4, on the straits used for international navigation.

In reply to a question raised by the Chairman, he said that, on the assumption

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(Mr. Aguilar, Venezuela)

that the Committee could complete its general debate on items 5, 6 and 7, which were closely interrelated, during the current week, it should be possible to take up the item on the economic zone before the end of the following week.

Mr. YANKOV (Bulgaria), Chairman of the Third Committee, reporting on the work of that Committee, said that it had now concluded general statements on item 12, relating to preservation of the marine environment, and on items 13 and 14, relating to scientific research and the development and transfer of technology. A total of 85 general statements had been made.

During the current week, the Committee would hold informal meetings to consider alternately those three items. The Secretariat had prepared an unofficial comparative table of proposals, which would form the main subject of the informal meetings.

He hoped that it would be possible to present a progress report each week, and to harmonize the work carried out in the two separate fields. While time was required for negotiations - for which the informal meetings were an appropriate forum - it should be possible to identify the main problems relating to each item.

Mr. NJENGA (Kenya) asked the Chairman of the Third Committee whether there was a deadline for submission of formal proposals to that body.

Mr. YANKOV (Bulgaria), Chairman of the Third Committee, replied that there was an understanding that proposals could be submitted throughout the session. It was for the delegation concerned to decide whether it preferred to submit its proposal in a formal or an informal meeting. In any case the Committee would, in accordance with the decision taken at its second meeting, hold official meetings once a week to enable delegations to submit proposals formally and to hear progress reports on the unofficial meetings.

Since the question had been raised, however, he appealed to all delegations to submit their proposals as soon as possible so that they could be considered in conjunction with the relevant item.

Mr. NJENGA (Kenya) hoped that in accordance with the flexible arrangement proposed by the Chairman of the Third Committee, it would be possible to hold a formal meeting so that his delegation could introduce a revision of its paper on marine pollution. The Committee could then immediately proceed with an informal meeting.

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Mr. YANKOV (Bulgaria), Chairman of the Third Committee, gave his assurance that all possible efforts would be made to accommodate delegations' wishes, and that flexibility would be applied to a reasonable extent.

Mr. BEESLEY (Canada), Chairman of the Drafting Committee, reporting on the work of that body, pointed out that it had not yet received any drafting work - a fact which strengthened the emphasis by the Chairmen of the Main Committees on the urgent need to proceed to work of real substance. The fact that rapid progress was not being made was not, however, the fault of the respective Chairmen, all of whom were exerting real pressure: it was clear that time would be required to overcome the difficulties.

The CHAIRMAN said he wished to appeal to the Main Committees to send texts to the Drafting Committee as soon as possible in order to avoid a heavy workload later in the session.

TRIBUTE TO SIMON BOLIVAR THE LIBERATOR (A/CONF.62/L.3 and Add.1-2)

Mr. CALERO RODRIQUEZ (Brazil), introducing draft resolution A/CONF.62/L.3 and Add.1-2, said that the representative of El Salvador, as Chairman of the meeting of Latin American countries, had been working on the proposed programme to mark the anniversary of the birth of Simón Bolívar, and would be able to explain it further in the plenary meeting.

Mr. HASSAN (Sudan) suggested that it would honour the memory of Simón Bolívar and the principles for which he stood if the Conference were to give effect to its decision to invite the national liberation movements to participate in its work by inviting them to participate in the proposed ceremony. The Chairman might contact the Chairman of the group of African States, or the representative of OAU, for that purpose.

The CHAIRMAN replied that the occasion should be confined to a tribute to Simón Bolívar. In saying that, however, he did not wish to detract from the cause of the liberation movements. If delegations wished to derive some inspiration from the ceremony in support of that cause, they were free to do so. However, he urged them to take his view into account.

He announced that the following delegations wished to be included in the list of sponsors of draft resolution A/CONF.62/L.3 and Add.1-2: Burundi, Canada, Federal Republic of Germany, France, Iceland, Indonesia, Liberia, Madagascar, Norway, Turkey,

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(The Chairman)

United Kingdom, United Republic of Cameroon, United States of America, Yuogslavia and Zaire.

If there were no further comments the item would be referred to the plenary, which would take up the draft resolution itself.

OTHER MATTERS

Mr. ARIAS SCHREIBER (Peru) said he wished to raise a matter in connexion with summary record A/CONF.62/SR.37. First of all, he wished to acknowledge that the writing of summary records was a very difficult and sensitive task, since it was important to ensure that the statements setting forth the juridical positions of delegations to the Conference were reflected with clarity, accuracy and precision, in that respect, all delegations should be treated equally. However, the statement made by his delegation at the 37th plenary meeting, during the general debate - a 13-page statement prepared with the same care as statements by other delegations - had been reduced to three and one-half pages in the summary record. On the other hand, the summary of the statement delivered at that same meeting by the French delegation, which had consisted of approximately the same number of pages, had been about double the length of the statement given by his own delegation. Without wishing to question the importance of the French delegation s statement, or to allege any intentional discrimination by the Secretariat, his delegation took the view that those two statements, as well as statements by any other delegations should have received more or less equal treatment.

Having compared the original texts of statements by a number of delegations with the corresponding summaries in the summary records, his delegation noted that its statement had been the only one to have received less than equal treatment.

Mr. CHAIRMAN agreed that the matter was very sensitive and of the utmost importance to delegations. He agreed that every statement should be properly reflected in the summary records. He invited the Special Representative of the Secretary-General to reply to the question raised by the representative of Peru.

Mr. STAVROPOULOS (Special Representative of the Secretary-General) said it was the first time that such a complaint had been drawn to his attention. He felt sure that

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(Mr. Stavropoulos)

any omissions that might have been made in the summary record did not reflect any partiality on the part of the Secretariat with respect to the delegation of Peru or any other delegation.

In any case, after examining the facts, he undertook to report back to the delegation of Peru and then to the General Committee.

The CHAIRMAN suggested that the imbalance in the summaries of the two statements in question had perhaps resulted from the fact that different précis-writers had prepared them. He accordingly suggested that, in order to preserve a proper balance in the summary records, there should be consultation among précis-writers with regard to the treatment of the various statements.

Mr. ANDERSON (Iceland) said that, in all fairness to the Secretariat, he wished to point out that the statements made by some delegations were more condensed than those made by others. It was therefore not merely a matter of the number of lines in the final summary.

Mr. ARIAS-SCHREIBER (Peru) agreed that it was not merely a matter of the number of lines; however, in the case in point, a question of substance had been omitted from the summary of his delegation's statement, namely a reference to the sea-bed régime and the organs of the authority.

The meeting rose at 10 a.m.

U N I T E D N A T I O N S

Press Section
Office of Public Information
United Nations, N.Y.

(FOR USE OF INFORMATION MEDIA -- NOT AN OFFICIAL RECORD)

Press Release SEA/37
3 July 1974

SECOND COMMITTEE OF LAW OF SEA CONFERENCE DECIDES ON ORGANIZATION OF WORK

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The Second Committee (General Aspects of Sea Law) of the Third United Nations Conference on the Law of the Sea, at its first meeting in Caracas this morning, 3 July, took a number of decisions on its organization of work.

It decided that the items allocated to it by the Conference would be discussed one by one, keeping in mind the interrelationship between the various subjects. However, no final decision on any particular issue would be taken until all the items had been considered by the Committee.

Taking up the proposal of the Chairman, Andres Aguilar (Venezuela), who had held informal consultations with members on organizational matters, the Committee decided that no working groups would be set up at the initial stage, but that one or more of them would be established as and when they became necessary.

In order to give delegations an opportunity to follow the general statements in the plenary meetings so far as possible, the Committee decided to begin its substantive work towards the end of next week.

All the decisions were taken by consensus.

The meeting scheduled for this afternoon was cancelled.

Work in Three Committees

Most of the work of the Conference is to be carried out in the three main committees of the entire membership.

The First Committee will deal with the question of the international regime and machinery for the sea-bed, the Second Committee with general aspects of the law of the sea, and the Third Committee with the preservation of the marine environment and scientific research.

(more)

The other two committees have yet to hold meetings at the current session.

The Second Committee would deal with a number of items concerning the law of the sea in general, including the territorial sea and contiguous zone, straits used for international navigation, continental shelf, exclusive economic zone beyond the territorial sea, coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea, the high seas, the special rights and interests of land-locked and other disadvantaged countries and of States with broad continental shelves, archipelagos, enclosed and semi-enclosed seas, artificial islands and installations, islands, and transmission from the high seas.

The officers of the Second Committee are as follows: Chairman, Andres Aguilar (Venezuela); Vice-Chairmen, Czechoslovakia, Kenya and Turkey; Rapporteur, Satya N. Nandan (Fiji).

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UNITED NATIONS

THIRD CONFERENCE
ON THE LAW OF THE SEA

Distr.
LIMITED

A/CONF.62/C.2/L.2
3 July 1974
ENGLISH
ORIGINAL: SPANISH

Second Committee

STATEMENT MADE BY THE CHAIRMAN OF THE SECOND COMMITTEE AT ITS FIRST MEETING HELD ON 3 JULY 1974 CONCERNING THE ORGANIZATION OF ITS WORK

I have held consultations with the officers of this Committee, the Chairman of the regional groups and some individual delegations and, as a result of these consultations, it is my understanding that, in general there appears to be agreement on the following points bearing on the organization of this Committee's work:

(1) The Committee should start by dealing with substantive questions next week towards the end of the general debate in the plenary Conference;

(2) The items allocated to the Committee should be taken up in official and non-official meetings, as considered convenient, with the Committee Chairman presiding. Working groups should not be established, at least at the initial stage, on the understanding that, if necessary, one or more informal ad hoc groups may be established;

(3) The items allocated to the Committee should be considered one by one in the order in which they appear in the relevant list. The idea is to consider each of these items and questions and then to identify the main trends and to express these trends in generally acceptable formulae, in other words, to "put the item on ice", without taking decisions, and to pass on to the following item. It is clearly understood that, during the discussion of each item, delegations may refer to related items. No decision will be taken until all the closely interconnected items have been fully considered;

(4) At present it does not seem possible to draw up a time-table of work. At most, such a time-table could be prepared only tentatively and the officers are currently working on this. The officers of the Committee could be given the responsibility of periodically reviewing the progress of the work in the light of the time available. Depending on the progress of the work and having regard to the time factor, special measures could be taken to expedite the work when it is thought that the Committee is falling behind;

(5) The Committee should not take a formal decision on the documentation which will serve as a basis for its work. All the available documents - the documents of the Sea-Bed Committee and any others that may have been submitted officially or informally or which may be submitted during this session - may be used.

UNITED NATIONS

THIRD CONFERENCE
ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.77
23 August 1974
ENGLISH
ORIGINAL: SPANISH

SECOND COMMITTEE

STATEMENT MADE BY THE CHAIRMAN OF THE SECOND COMMITTEE AT ITS FORTY-THIRD MEETING HELD ON 23 AUGUST 1974 CONCERNING THE ORGANIZATION OF ITS WORK

At the 9th informal meeting of the Committee, held on 15 August 1974, the Committee approved the proposal on the organization of the work which I submitted for its consideration on behalf of the General Committee. The proposal, as adopted, is as follows:

(1) Priority will be given to the completion of the first stage of the Committee's work, namely the consideration of the informal working papers which still have to be discussed and their possible revision.

(2) Simultaneously, whenever time was available, the Committee will undertake a second reading of the items allocated to it, which will be regrouped as follows:

GROUP I: item 2 (territorial sea); item 4 (straits used for international navigation); item 16 (archipelagos); and item 3 (contiguous zone). Item 17 (enclosed and semi-enclosed seas), item 18 (artificial islands and installations), and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

GROUP II: item 5 (continental shelf); item 6 (exclusive economic zone); item 7 (coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea); item 10 (rights and interests of shelf-locked States and States with narrow shelves or short coastlines); and item 11 (rights and interests of States with broad shelves). Item 9 (land-locked countries), item 17 (enclosed and semi-enclosed seas), item 18 (artificial islands and installations), and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

GROUP III: item 8 (high seas) and item 24 (transmission from the high seas). Item 18 (artificial islands and installations) and item 19 (régime of islands) can also be discussed in so far as they relate to the other items included in this group.

(3) The aim of this second reading is to reduce, as far as possible, the number of alternative formulations in the working papers. Consequently, discussions should be focused on differences of substance, not on questions of drafting, except where new wording can help to combine alternative formulations.

(4) There will be an opportunity for delegations to introduce proposals in formal meetings of the Committee. It is to be hoped that these new proposals will be primarily designed to consolidate texts and thus reduce the number of variants. However, most of the work in the second stage will be carried out at informal meetings.

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3 July 1974

ORIGINAL: ENGLISH

Second Committee

UNITED KINGDOM: DRAFT ARTICLES ON THE TERRITORIAL SEA AND STRAITS

CONVENTION ON THE LAW OF THE SEA

THE STATES PARTIES TO THIS CONVENTION,

DESIRING to develop the law of the sea in order to meet present and future needs of the entire world community;

HAVE AGREED as follows:

(Chapter One: International Régime for the Sea-Bed and Ocean Floor beyond National Jurisdiction)

Chapter Two

TERRITORIAL SEA

PART I

NATURE AND CHARACTERISTICS

Article 1

1. The sovereignty of a State extends beyond its land territory and its internal waters to a belt of sea adjacent to its coast described as the territorial sea.

2. The sovereignty of a coastal State extends also to the air space over the territorial sea as well as to the bed and subsoil thereof.

3. The coastal State exercises this sovereignty subject to the provisions of this Convention and to other rules of international law.

PART II

LIMITS OF THE TERRITORIAL SEA

Article 2

The territorial sea may not extend beyond 12 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Note: Add here the text of articles 3 to 13 of the Territorial Sea Convention, 1958.

PART III

RIGHT OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA

Section I. Rules applicable to all ships

Article 14

Subject to the provisions of this chapter, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea. Passage of straits used for international navigation is governed by the provisions of Chapter Three of this Convention.

Article 15

1. Innocent passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to or from internal waters.

2. Innocent passage includes stopping and anchoring; but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress; otherwise such passage shall be continuous and expeditious.

Article 16

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage of a foreign ship shall not be considered prejudicial to the peace, good order or security of the coastal State unless, in the territorial sea, it engages in any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of the coastal State, or without authorization from the coastal State or justification under international law in any of the following activities:

(a) any exercise or practice with weapons of any kind;

(b) the launching or taking on board of any aircraft;

/...

(c) the launching, landing or taking on board of any military device;

(d) the embarking or disembarking of any person or cargo contrary to the customs, fiscal, immigration or sanitary laws or regulations of the coastal State;

(e) any act aimed at interfering with any system of communication of the coastal State;

(f) any act aimed at interfering with any other facilities or installations of the coastal State.

3. Passage shall not be considered prejudicial to the peace, good order or security of the coastal State if any such activity is:

(a) prudent for safe and efficient navigation in accordance with the normal practice of seamen; or

(b) carried out with the prior authorization of the coastal State; or

(c) rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

4. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and shall not discriminate in form or in fact amongst foreign ships on any grounds.

5. The coastal State is required to give appropriate publicity to any dangers to navigation, of which it has knowledge, within the territorial sea.

6. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent within the meaning of this article.

7. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such waters is subject.

Article 17

The coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of the territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been given appropriate publicity.

Article 18

1. The coastal State may make laws and regulations in conformity with the provisions of this Convention and other rules of international law relating to innocent passage through its territorial sea. Such laws and regulations may be only in respect of the following:

/...

(a) the safety of navigation and the regulation of marine traffic, including sea lanes and traffic separation schemes·

(b) the prevention of destruction of, or damage to, facilities and systems of aids to navigation;

(c) the prevention of destruction of, or damage to, facilities or installations, including those for the exploration and exploitation of resources of the sea-bed and subsoil;

(d) the preservation of the marine environment in accordance with Chapter of this Convention;

(e) research into the marine environment;

(f) prevention of infringement of the customs, fiscal, immigration, or sanitary regulations of the coastal State; and

(g) prevention of unauthorized fishing by foreign fishing vessels including inter alia the stowage of gear.

2. Such laws and regulations shall not:

(a) apply to the design, construction, manning or equipment of foreign ships or matters regulated by generally accepted international rules unless specifically authorized by such rules;

(b) impose requirements on foreign ships which have the practical effect of denying or prejudicing the right of innocent passage in accordance with this Convention; and

(c) discriminate in form or in fact among foreign ships.

3. The coastal State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

5. The coastal State shall ensure that the application, in form and in fact, of its laws and regulations upon foreign ships exercising the right of innocent passage is in conformity with the provisions of this Convention. If a coastal State acts in a manner contrary to the provisions of this Chapter and loss or damage to a foreign ship results, the coastal State shall compensate the owners of the ship for that loss or damage.

Article 19

During their passage through the territorial sea foreign ships including marine research and hydrographic survey ships may not carry out any marine research or survey activities without the prior authorization of the coastal State.

/...

Article 20

Submarines and other underwater vehicles in innocent passage may be required to navigate on the surface and to show their flag.

Section II. Rules applicable to merchant ships

Article 21

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Reasonable charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. The charges shall be levied without discrimination.

Article 22

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) if the consequences of the crime extend to the coastal State; or

(b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) if the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) if it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The provisions of paragraph 1 of this article do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of any arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 23

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course, or for the purpose of its passage through the waters of the coastal State.

3. The provisions of paragraph 2 of this article are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

Section III. Rules applicable to government ships

Sub-section A. Government ships other than warships

Article 24

The rules contained in Sections I and II of these articles shall apply to government ships operated for commercial purposes.

Article 25

1. The rules contained in Section I and in Article 21 of these articles shall apply to government ships operated for non-commercial purposes.

2. Subject to the provisions of paragraph 1 of this article, nothing in these articles affects the immunities which such ships enjoy under the provisions of these articles or other rules of international law.

Sub-section B. Warships

Article 26

1. For the purpose of this article, the term "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate Service List or its equivalent, and manned by a crew who are under regular armed forces discipline.

/...

2. The rules contained in Section I of these articles shall apply to warships.

3. Foreign warships exercising the right of innocent passage shall not, in the territorial sea, carry out any manoeuvres other than those having direct bearing on passage.

4. If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea or fails to comply with the requirements of these articles and disregards any request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

Article 27

Subject to the provisions of Articles 26 and 28 of these articles, nothing in these articles affects the immunities which warships enjoy under the provisions of these articles or other rules of international law.

Sub-section C. State responsibility for government ships

Article 28

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State (including its environment and any of its facilities, installations or other property, or to any ships flying its flag), international responsibility shall be borne by the flag State of the ship causing the damage.

PART IV - DISPUTES

Article 29

Any dispute concerning the interpretation or application of this Chapter shall be settled in accordance with Chapter of this Convention.

Chapter Three

PASSAGE OF STRAITS USED FOR INTERNATIONAL NAVIGATION

Article 1

1. In straits to which this article applies, all ships and aircraft enjoy the right of transit passage, which shall not be impeded.

2. Transit passage is the exercise in accordance with the provisions of this Chapter of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas and another part of the high seas or a State bordering the strait.

3. This article applies to any strait or other stretch of water, whatever its geographical name, which:

(a) is used for international navigation;

(b) connects two parts of the high seas.

4. Transit passage shall apply in a strait only to the extent that:

(a) an equally suitable high seas route does not exist through the strait; or

(b) if the strait is formed by an island of the coastal State, an equally suitable high seas passage does not exist seaward of the island.

Article 2

1. Ships and aircraft, while exercising the right of transit passage shall:

(a) proceed without delay through the strait and shall not engage in any activities other than those incident to their normal modes of transit;

(b) refrain from any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of an adjacent straits State.

2. Ships in transit shall:

(a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;

(b) comply with generally accepted international regulations, procedures and practices for the prevention and control of pollution from ships.

/...

3. Aircraft in transit shall:

(a) Observe Rules of the Air established by the International Civil Aviation Organization under the Chicago Convention as they apply to civil aircraft; State aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) at all times monitor the radio frequency assigned by the appropriate internationally designated air traffic control authority or the appropriate international distress radio frequency.

Article 3

1. In conformity with this Chapter, a straits State may designate sealanes and prescribe traffic separation schemes for navigation in the strait where necessary to promote the safe passage of ships.

2. A straits State may, when circumstances require and after giving due publicity to its decision, substitute other sealanes or traffic separation schemes for any previously designated or prescribed by it.

3. Before designating sealanes or prescribing traffic separation schemes, a straits State shall refer proposals to the competent international organization and shall designate such sealanes or prescribe such separation schemes only as approved by that organization.

4. The straits State shall clearly indicate all sealanes and separation schemes designated or prescribed by it on charts to which due publicity shall be given.

5. Ships in transit shall respect applicable sealanes and separation schemes established in accordance with this article.

Article 4

1. Subject to the provisions of this article, a straits State may make laws and regulations:

(a) in conformity with the provisions of Article 3 above;

(b) giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait.

2. Such laws and regulations shall not discriminate in form or fact among foreign ships.

3. The straits State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations of the straits State.

5. If a ship entitled to sovereign immunity does not comply with any such laws or regulations and damage to the straits State results, the flag State shall in accordance with Article 7 be responsible for any such damage caused to the straits State.

Article 5

User States and straits States should by agreement co-operate in the establishment and maintenance in a strait of necessary navigation and safety aids or other improvements in aid of international navigation or for the prevention and control of pollution from ships.

Article 6

A straits State shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which it has knowledge. There shall be no suspension of transit passage.

Article 7

1. Responsibility for any damage caused to a straits State resulting from acts in contravention of this Chapter by any ship or aircraft entitled to sovereign immunity shall be borne by the flag State.

2. If a straits State acts in a manner contrary to the provisions of this Chapter and loss or damage to a foreign ship or aircraft results, the straits State shall compensate the owners of the vessel or aircraft for that loss or damage.

Article 8

1. In straits used for international navigation between one part of the high seas and another part of the high seas or between one part of the high seas and the territorial sea of a foreign State, other than those straits in which the régime of transit passage applies in accordance with Article 1, the régime of innocent passage in accordance with the provisions of Part III of Chapter Two shall apply, subject to the provisions of this article.

2. There shall be no suspension of the innocent passage of foreign ships through such straits.

3. The provision of Article 3 of this Chapter shall apply in such straits.

Article 9

Nothing in this Chapter shall affect any areas of high seas within a strait.

/...

Article 10

The provisions of this Chapter shall not affect obligations under the Charter of the United Nations or under conventions or other international agreements already in force relating to a particular strait.

Article 11

In this Chapter "straits State" means any State bordering a strait to which the Chapter applies.

Article 12

Any dispute concerning the interpretation or application of this Chapter shall be settled in accordance with Chapter of this Convention.

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22 July 1974

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Second Committee

Denmark and Finland: amendment to draft articles on the territorial sea and straits contained in document A/CONF.62/C.2/L.3

On page 8, Chapter Three, amend Article 1 as follows:

Article 1

1. In straits to which this article applies, all ships and aircraft enjoy the right of transit passage, which shall not be impeded.

2. Transit passage is the exercise in accordance with the provisions of this Chapter of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas and another part of the high seas or a State bordering the strait.

3. This article applies to any strait or other stretch of water which is more than six miles wide between the base-lines, whatever its geographical name, which:

(a) is used for international navigation;

(b) connects two parts of the high seas.

4. Transit passage shall apply in a strait only to the extent that:

(a) an equally suitable high seas route does not exist through the strait; or

(b) if the strait is formed by an island of the coastal State, an equally suitable high seas passage does not exist seaward of the island.

5. The provisions of Chapter Two, Part III apply to straits used for international navigation not wider than six miles between the base-lines.

There shall be no suspension of innocent passage of foreign ships through such straits.

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9 July 1974

ORIGINAL: ENGLISH

Second Committee

GUYANA: INTRODUCTORY ARTICLE ON COASTAL STATE COMPETENCE IN CONTIGUOUS OCEAN SPACE

Article 1

Subject to the relevant provisions of this Convention and the other applicable rules of international law, the jurisdiction of a coastal State extends beyond its land territory, including its internal or archipelagic waters, to an area of ocean space contiguous to its coast up to a seaward limit of 200 nautical miles measured from the applicable baselines.

Article 2

Within the area of its jurisdiction defined in Article 1 the coastal State exercises full sovereignty over a belt of ocean space including the superjacent air space, sea-bed and subsoil thereof, up to a seaward limit of 12 nautical miles measured from the applicable baselines, subject only to the right of innocent passage defined in Article ... of this Convention.

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Second Committee

Oman: Draft articles on navigation through the territorial sea, including straits used for international navigation

(Items 2.4 and 4 of the list)

Part I

Right of innocent passage through the territorial sea

Section 1. Rules applicable to all ships

Article 1. Right of innocent passage

Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Article 2. Passage

1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering any port in the coastal State or its internal waters, or of proceeding to any port in the coastal State or its internal waters from the high seas, or of making for the high seas from any port in the coastal State or its internal waters.

2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress.

3. Passage shall be continuous and expeditious. Passing ships shall refrain from manoeuvring unnecessarily, hovering or engaging in any activity other than mere passage

4. Passage through archipelagic waters shall be governed by the provisions of Chapter ... of this Convention.

Article 3. Innocence of passage

1. Passage is innocent as long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage of a foreign ship shall not be considered prejudicial to the peace, good order or security of the coastal State unless it engages in the territorial sea in activities such as:

(a) any warlike act against the coastal or any other State or any threat or use of force;

(b) any exercise or practice with weapons of any kind;

(c) the launching or taking on board any device;

(d) the launching, landing or taking on board of any aircraft;

(e) the embarking or disembarking of any person or cargo;

(f) any act of propaganda affecting the defence or security of the coastal State;

(g) any act of espionage or collecting of information affecting the defence or security of the coastal State;

(h) any act of interference with any system of communications of the coastal State;

(i) any act of interference with any other facilities or installations of the coastal State;

(j) the carrying out of research operation of any kind.

3. Submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

4. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent these vessels from fishing in the territorial sea.

5. The provisions of this article shall not apply to any activities carried out with the prior authorization of the coastal State or as are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons or vessels in danger or distress.

Article 4. Duties of coastal States

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles, discriminate in form or in fact against the ships of any particular State or against ships carrying cargoes or passengers to, from and on behalf of any particular State.

2. The coastal State is required to give appropriate publicity to any obstacles or dangers to navigation, of which it has knowledge, within the territorial sea.

/...

3. The coastal State is required to give appropriate publicity to the existence in its territorial sea of any facilities or systems of aid to navigation and of any facilities to explore and exploit marine resources which could be an obstacle to navigation, and to install in a permanent way the necessary marks to warn navigation of the existence of such facilities and systems.

4. In order to expedite the passage of ships through the territorial sea, the coastal State shall ensure that the procedures for notification provided for in these articles shall be such as not to cause undue delay.

Article 5. Rights of coastal States

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

2. In the case of ships proceeding to any port in the coastal State or its internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such ports or waters is subject.

3. Subject to the provisions of part II of this chapter, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

4. The coastal State may require any foreign ship that does not comply with the provisions concerning regulation of navigation through the territorial sea to leave it by such route as may be directed by the coastal State.

Article 6. Regulation of navigation through the territorial sea

1. The coastal State may make laws and regulations, in conformity with the provisions of these articles and other rules of international law, relating to navigation through its territorial sea.

2. Such laws and regulations may be in respect of all or any of the following:

(a) the safety of navigation and the regulation of maritime traffic and transport, including the establishment of sealanes and traffic separation schemes, in accordance with article 7;

(b) the installation, utilization and protection of navigational facilities and aids;

(c) the installation, utilization and protection of facilities, structures and devices for the exploration and exploitation of the living and non-living resources of the territorial sea;

(d) the installation, utilization and protection of submarine or aerial cables and pipelines;

/...

(e) the preservation of the marine environment of the coastal State and the prevention of pollution thereto;

(f) research into the marine environment, including hydrographic surveying;

(g) prevention of infringement of the custom, fiscal, immigration or sanitary regulations of the coastal State;

(h) passage of ships with special characteristics, in accordance with Article 8.

3. The coastal State shall give due publicity to all laws and regulations made under the provisions of this article.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

5. The coastal State shall ensure that the application, in form and in fact, of its laws and regulations upon foreign ships exercising the right of innocent passage is in conformity with the provisions of this Convention

Article 7. Sealanes and traffic separation schemes

1. The coastal State may designate in its territorial sea sealanes and traffic separation schemes and prescribe the use of such sealanes and traffic separation schemes as compulsory for passing ships.

2. In the designation of sealanes and traffic separation schemes, the coastal State shall take into account:

(a) the recommendations of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels and the special characteristics of particular ships.

3. The coastal State shall clearly indicate all sealanes and traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

4. The coastal State may, after giving due publicity thereto, substitute sealanes for any sealanes previously designated by it or modify the traffic separation schemes also designated by it.

5. Foreign ships shall respect applicable sealanes and traffic separation schemes established in accordance with this article.

6. Foreign ships passing through sealanes and traffic separation schemes shall comply with appropriate rules to prevent collision at sea, and take into account instructions received from installations and systems of aids to navigation of the coastal State.

/...

Article 8. Navigation of ships with special characteristics

1. The coastal State may regulate the passage through its territorial sea of the following:

(a) nuclear-powered ships or ships carrying nuclear weapons;

(b) marine research and hydrographic survey ships;

(c) oil tankers and chemical tankers carrying harmful or noxious liquid substances in bulk;

(d) ships carrying nuclear substances or materials.

2. The coastal State may require prior notification to or authorization by its competent authorities for the passage through its territorial sea of foreign ships mentioned in subparagraph (a) of paragraph 1.

3. The coastal State may require prior notification to its competent authorities for the passage through its territorial sea, except along designated sealanes, of foreign ships mentioned in subparagraph (b) of paragraph 1.

4. The coastal State may require the passage through its territorial sea along designated sealanes of foreign ships mentioned in subparagraphs (c) and (d) of paragraph 1, in conformity with article 7.

Article 9. Liability

1. If a ship exercising the right of innocent passage does not comply with laws and regulations concerning navigation and any damage is caused to the coastal State, the coastal State shall be entitled to compensation for such damage.

2. If a coastal State acts in a manner contrary to the provisions of these articles and loss or damage to a foreign ship results, the coastal State shall compensate the owners of the ship for that loss or damage.

Section II. Rules applicable to merchant ships

Article 10. Charges

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered. These charges shall be levied without discrimination.

/...

Article 11. Criminal jurisdiction

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) if the consequences of the crime extend to the coastal State; or

(b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) if the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) if it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its law for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving a port or the internal waters.

3. In the cases provided for in paragraphs 1 and 2 of these articles, the coastal State shall, if the captain so requests, advise the consular authority of the country whose flag the ship flies, before taking any steps, and shall facilitate contacts between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall take due regard to the interests of navigation.

5. The coastal State may not take steps on board a foreign ship passing the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from any port, is only passing through the territorial sea without entering internal waters.

Article 12. Civil jurisdiction

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course, or for the purpose, of its passage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

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Section III. Rules applicable to government ships

Sub-section A. Government ships other than warships

Article 13. Government ships operated for commercial purposes

The rules contained in Section I and II of these articles shall apply to government ships operated for commercial purposes.

Article 14. Government ships operated for non-commercial purposes

1. The rules contained in articles 1 to 8 and article 10 shall apply to government ships operated for non-commercial purposes.

2. Subject to the provisions of paragraph 1 of this article, nothing in these articles affects the immunities which such ships enjoy under the provisions of these articles or other rules of international law.

Sub-section B. Warships

Article 15. Passage of warships

1. The rules contained in articles 1 to 8 shall apply to warships.

2. For the purpose of these articles, the term "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the appropriate service list or its equivalent, and manned by a crews who are under regular armed forces discipline.

3. The coastal State may require prior notification to or authorization by its competent authorities for the passage of foreign warships through its territorial sea, in conformity with the regulations in force in such a State.

Article 16. Designated sealanes

Foreign warships exercising the right of innocent passage may be required to pass through certain sealanes as may be designated for this purpose by the coastal State.

Article 17. Non-compliance with laws and regulations of the coastal State

If any warship does not comply with the law and regulations of the coastal State made in accordance with this Convention relating to the passage through the territorial sea or fails to comply with the requirements of these articles and disregards any request for compliance which is made to it, the coastal State may suspend the right of passage of such warship and may require the warship to leave the territorial sea by such route as may be directed by the coastal State.

/...

Article 18. Immunities

With such exceptions as are contained in these articles, nothing in the Convention affects the immunities which warships enjoy under the provisions of these articles or other rules of international law.

Sub-section C: State responsibility for government ships

Article 19. State responsibility for government ships

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws and regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State, including its environment and any of its facilities, installations or other property, or to any ship flying its flag, international responsibility shall be borne by the flag State of the ship causing such damage.

Part II

Right of innocent passage through straits used for international navigation

Article 20. Straits

These articles apply to any strait which is used for international navigation and forms part of the territorial sea of one or more States.

Article 21. Right of innocent passage

Subject to the provisions of article 22, the passage of foreign ships through straits shall be governed by the rules contained in part I of this chapter.

Article 22. Special duties of coastal States

1. Passage of foreign merchant ships through straits shall be presumed to be innocent.

2. There shall be no suspension of the innocent passage of foreign ships through straits.

3. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea in straits and shall make every effort to ensure speedy and expeditious passage; in particular it shall not discriminate, in form or in fact, against the ships of any particular State or against ships carrying cargoes or passengers to. from and on behalf of any particular State.

4. The coastal State shall not place in navigational channels in a strait facilities, structures or devices of any kind which could hamper or obstruct the passage of ships through such strait. The coastal State is required to give appropriate publicity to any obstacle or danger to navigation, of which it has knowledge, within the strait.

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Article 23. Special rights of coastal States

The coastal State may require the co-operation of interested States and appropriate international organizations for the establishment and maintenance of navigational facilities and aids in a strait.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/L.4
26 July 1974

ORIGINAL: ENGLISH

Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico
New Zealand and Norway: working paper

The representatives of Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand and Norway have held a number of informal consultations on certain issues relating to the Law of the Sea. They are presenting the following draft articles as a possible framework for discussion on those issues by the Third United Nations Conference on the Law of the Sea.

Preparation of this informal working paper does not imply withdrawal of the proposals submitted, individually or jointly, by some of the above-named States, or substitution of such proposals or stated positions by the present working paper; nor does the paper necessarily reflect their final positions and is without prejudice to declared national positions.

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Draft articles

Territorial sea: general provisions

Article 1

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and, in the case of archipelagic States, their archipelagic waters, over an adjacent belt of sea defined as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article 2

The breadth of the territorial sea shall not exceed 12 nautical miles to be measured from the applicable baseline.

Article 3

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article 4

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

4. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

/...

Archipelagic States

Article 5

1. An archipelagic State is a State constituted wholly or mainly by one or more archipelagos.

2. For the purpose of these articles, an archipelago is a group of islands, including parts of islands, with interconnecting waters and other natural features which are so closely interrelated that the component islands, waters and other natural features form an intrinsic geographical, economic and political entity or which historically have been regarded as such.

Article 6

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.

2. If the drawing of such baselines encloses a part of the sea traditionally used by an immediate and adjacent neighbouring State for direct communication from one part of its territory to another part, such communication shall continue to be respected.

Article 7

1. The waters enclosed by the baselines, hereinafter referred to as archipelagic waters, regardless of their depth or distance from the coast, belong to and are subject to the sovereignty of the archipelagic State to which they appertain.

2. The sovereignty and rights of the archipelagic State extend to the air space over its archipelagic waters as well as to the water column, the sea-bed and subsoil thereof, and to all of the resources contained therein.

3. Innocent passage* of foreign ships shall exist through archipelagic waters.

* /Further articles will be required relating to the régime and description of passage through specified sea lanes of the archipelagic waters./

Article 8

The foregoing provisions regarding archipelagic States shall not affect the established régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast, as expressed in article 4.

Archipelagos forming part of a coastal State

Article 9

1. A coastal State with one or more off-lying archipelagos, as defined in article 5, paragraph 2, which form an integral part of its territory, shall have the right to apply the provisions of articles 6 and 7 to such archipelagos upon the making of a declaration to that effect.

2. The territorial sea of a coastal State with one or more off-lying archipelagos exercising its rights under this article will be measured from the applicable baselines which enclose its archipelagic waters.

Article 10

The provision regarding archipelagos forming part of a coastal State shall not affect the established régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast, as expressed in article 4.

Article 11

The provision regarding archipelagos forming part of a coastal State shall be without prejudice to the régime of archipelagic States, as provided for in articles 5, 6 and 7.

Economic zone

Article 10

The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the exclusive economic zone: (a) sovereign rights for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters; (b) the other rights and duties specified in these articles with regard to the protection and preservation of the marine environment and the conduct of scientific research. The exercise of these rights shall be without prejudice to article 19 of this convention.

Article 13

The outer limit of the economic zone shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

/The co-sponsors recognize the requirement for equitable rights of access on the basis of regional, subregional or bilateral agreements, for nationals of developing land-locked States and developing geographically disadvantaged States (to be defined) to the living resources of the exclusive economic zones of neighbouring coastal States. They will shortly be presenting articles to this effect./

Article 14

In the economic zone, ships and aircraft of all States, whether coastal or not, shall enjoy freedom of navigation and overflight subject to the exercise by the coastal State of its rights within the area, as provided for in this convention.

Article 15

The coastal State shall exercise its rights and perform its duties in the economic zone without undue interference with other legitimate uses of the sea, including, subject to the provisions of this convention, the laying of cables and pipelines.

Article 16

The emplacement and use of artificial islands and other installations on the surface of the sea, in the waters and on the sea-bed and subsoil of the economic zone, shall be subject to the authorization and regulation of the coastal State.

Article 17

In exercising their rights under this convention, States shall not interfere with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Article 18

The coastal State shall ensure that any exploration and exploitation activity within its economic zone is carried out exclusively for peaceful purposes.

/Further specific articles will be required in relation to the economic zone./

Continental shelf

Article 19

1. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring it and exploiting its natural resources.

2. The continental shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles.

 /...

3. Paragraph 2 of this article shall be without prejudice to the provisions concerning delimitation between adjacent and opposite States contained in articles and other rules of international law.

/Further provisions will be required on the subject of article 19 including provisions to cover the precise demarcation of the limits of the continental margin beyond 200 miles; the use of the shelf for peaceful purposes only; delimitations between opposite and adjacent States, with retention of existing rights, including rights under bilateral agreements; and the relationship between the continental shelf and the economic zone./

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9 July 1974

ORIGINAL: ENGLISH

Second Committee

INDIA: TERRITORIAL SEA: NATURE AND CHARACTERISTICS

(vide item 2.1)

Article 1

1. The sovereignty of a State extends beyond its land territory, and its internal or archipelagic waters, to a belt of sea adjacent to its coast, described hereinafter as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea, and to the sea, the sea-bed and subsoil thereof, as well as to their resources.

3. The coastal State exercises its sovereignty in and over the territorial sea subject to the provisions of these articles and to other rules of international law.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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10 July 1974
ENGLISH
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Second Committee

SPAIN: DRAFT ARTICLES ON ITEM 2.1 OF THE LIST OF SUBJECTS AND ISSUES

CONVENTION ON THE LAW OF THE SEA

Part II

Belts of sea under national sovereignty or jurisdiction

Chapter I. Powers of States

Article 1. General provision

The powers of a coastal State over the belts of sea under its national sovereignty or jurisdiction extend beyond its land territory and its internal or archipelagic waters up to a maximum seaward limit of 200 miles, in accordance with the provisions of this Convention.

Chapter II. Territorial sea

Article 2. Nature and characteristics of the territorial sea

1. The sovereignty of a coastal State extends beyond its land territory and its internal or archipelagic waters to a belt of sea adjacent to its coast hereinafter referred to as the territorial sea.

2. The sovereignty of a coastal State over its territorial sea extends to the air space above it as well as to the sea-bed, subsoil and resources thereof.

3. The coastal State exercises this sovereignty subject to the provisions of these articles and to other rules of international law.

Article 3. Straits forming part of the territorial sea

1. The sovereignty of a coastal State extends to straits forming part of the territorial sea, whether or not they are used for international navigation.

2. The coastal State exercises this sovereignty in accordance with the provisions of these articles and to other rules of international law.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.7
12 July 1974

ORIGINAL: ENGLISH

Second Committee

BANGLADESH: TERRITORIAL SEA: NATURE AND CHARACTERISTICS

(item 2.1)

Article 1

1. The territorial sea is a prolongation of the territory of a State and extends, beyond its land territory and its internal or archipelagic waters, to a belt of sea adjacent to its coast.

2. The coastal State exercises its sovereignty in and over the territorial sea, including its resources therein, subject to the provisions of this Convention.

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A/CONF.62/C.2/L.8
15 July 1974

ORIGINAL: ENGLISH

Second Committee

TURKEY: DRAFT ARTICLE ON ITEM 2. TERRITORIAL SEA

Breadth of the territorial sea. Global or regional criteria. Open seas and oceans, semi-enclosed seas and enclosed seas.

1. A coastal State shall have the right to determine the breadth of its territorial sea within a maximum limit of (...) nautical miles, measured from applicable baselines drawn in accordance with the relevant articles of this Convention.

2. The right referred to in paragraph (1) shall not be exercised in such a manner as to cut off the territorial sea of another State or any part thereof from the high seas.

3. In areas of semi-enclosed seas, having special geographical characteristics, the breadth of the territorial seas shall be determined jointly by the States of that area.

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74-19767

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.9
15 July 1974

ORIGINAL: ENGLISH

Second Committee

TURKEY: PROPOSAL ON ITEM 2. TERRITORIAL SEA

Question of the delimitation of the territorial sea: various aspects involved

1. Where the coasts of two or more States are adjacent and/or opposite, the delimitation of the boundary lines of the respective territorial seas shall be determined by agreement among them in accordance with equitable principles.

2. In the course of negotiations, the States may apply any one or a combination of delimitation methods appropriate for arriving at an equitable agreement, taking into account special circumstances, including, inter alia, the general configuration of the respective coasts and the existence of islands, islets or rocks.

3. The States shall make use of the methods envisaged in Article (33) of the United Nations Charter or other peaceful means and methods open to them, in order to resolve differences which may arise in the course of negotiations.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.10
16 July 1974
ENGLISH
ORIGINAL: SPANISH

Second Committee

ECUADOR: PROPOSAL ON THE TERRITORIAL SEA

(item 2.1)

ARTICLE 1

1. The sovereignty of a coastal State extends beyond its coast and internal or archipelagic waters to an adjacent zone described as the territorial sea.

2. The sovereignty extends also to the sea-bed and subsoil of the territorial sea as well as to the corresponding air space.

3. Each State has the right to establish the breadth of its territorial sea up to a distance not exceeding 200 nautical miles, measured from the applicable baselines.

ARTICLE 2

The coastal State exercises its sovereignty over the territorial sea subject to the provisions of this Convention.

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THIRD CONFERENCE
ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.12
17 July 1974

ORIGINAL: ENGLISH

Second Committee

NIGERIA: DRAFT ARTICLES ON THE TERRITORIAL SEA

Article 1

(General Provisions: Nature and Characteristics)

Article 2

Limits of the Territorial Sea

The territorial sea shall not extend beyond 50 nautical miles from the baseline from which the breadth of the territorial sea is measured.

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74-

UNITED NATIONS

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A/CONF.62/C.2/L.13
18 July 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Fiji, Indonesia, Mauritius, Philippines: draft articles on territorial sea

Nature and characteristics

1. The sovereignty of a coastal State extends beyond its land territory and internal waters, and in the case of archipelagic States, their archipelagic waters, over an adjacent belt of sea defined as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

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74-19727

UNITED NATIONS

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A/CONF.62/C.2/L.19
23 July 1974

ORIGINAL: ENGLISH

Second Committee

Fiji: draft articles relating to passage through the territorial sea

Explanatory note

In the draft articles submitted to the Sea-Bed Committee in document A/AC.138/SC.II/L.42 1/ of 19 July 1973, the Fiji delegation sought to establish general rules of a more objective nature for the passage of ships through the territorial sea. In particular it attempted to elaborate a more precise definition of the concept of innocent passage, and to elaborate on the existing rules relating to the passage of warships.

In the light of the many helpful comments that have since been made in relation to that paper, including the fact that other delegations have adopted parts of our text in their proposals, we felt that it may be desirable to revise our own paper in order to maintain the unity of its approach.

As in the case of the previous draft articles these are now presented to this Committee as a basis for discussion.

Since the concept of innocent passage is being discussed in relation to the territorial sea and in relation to straits, items 2 and 4 respectively, we consider it appropriate to relate this draft to both those items. This is without prejudice to any ultimate decision that this Committee or the Conference may make in relation to the régime or régimes applicable to the passage of foreign ships through straits.

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021), vol. III, pp. 91-93.

Fiji: Revised draft articles on navigation through the territorial sea, including straits used for international navigation

(Items 2.4 and 4)

SECTION I. RULES APPLICABLE TO ALL SHIPS

Subsection A. Right of innocent passage

Article 1

Subject to the provisions of these articles, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Article 2

1. Passage means navigation through the territorial sea for the purpose either of traversing that sea without entering any port in the coastal State, or of proceeding to any port in the coastal State from the high seas, or of making for the high seas from any port in the coastal State.

2. Passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or by distress; otherwise passage shall be continuous and expeditious.

3. For the purposes of these articles the term "port" includes any harbour or roadstead normally used for the loading, unloading or anchoring of ships.

Article 3

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State, if in the territorial sea it engages in any threat or use of force in violation of the Charter of the United Nations against the territorial integrity or political independence of the coastal State or of any other State, or if it engages in any of the following activities:

(i) any other warlike act against the coastal or any other State;

(ii) any exercise or practice with weapons of any kind;

(iii) the launching or taking on board of any aircraft;

(iv) the launching, landing or taking on board of any military device;

/...

(v) the embarking or disembarking of any person or cargo;

(vi) any act of espionage affecting the defence or security of the coastal State;

(vii) any act of propaganda affecting the security of the coastal State;

(viii) any act of interference with any systems of communication of the coastal or any other State;

(ix) any act of interference with any other facility or installation of the coastal State;

(x) any other activity not having a direct bearing on passage.

3. The provisions of paragraph 2 of this article shall not apply to any activities carried out with the prior authorization of the coastal State or as are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

4. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea and, in particular, it shall not, in the application of these articles or of any laws or regulations made under the provisions of these articles, discriminate in form or in fact against the ships of any particular State or against ships carrying cargoes to, from or on behalf of any particular State.

5. The coastal State is required to give appropriate publicity to any obstacles or dangers to navigation, of which it has knowledge, within the territorial sea.

6. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.

7. In the case of ships proceeding to any port in the coastal State, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to such port is subject.

Article 4

1. Subject to the provisions of paragraph 2 of this article, the coastal State may, without discrimination amongst foreign ships, suspend temporarily in specified areas of the territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been given due publicity.

2. Except to the extent authorized under the provisions of these articles, there shall be no suspension of the innocent passage of foreign ships through straits used for international navigation or through sealanes designated under the provisions of these articles.

/...

Subsection B. Regulation of passage

Article 5

1. The coastal State may make laws and regulations, in conformity with the provisions of these articles and other rules of international law, relating to passage through the territorial sea, which laws and regulations may be in respect of all or any of the following:

(a) the safety of navigation and the regulation of marine traffic, including the designation of sealanes and the establishment of traffic separation schemes;

(b) the installation, utilization and protection of navigational aids and facilities;

(c) the installation, utilization and protection of facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the territorial sea;

(d) the protection of submarine or aerial cables and pipelines;

(e) the conservation of the living resources of the sea;

(f) the preservation of the environment of the coastal State, including the territorial sea, and the prevention of pollution thereto;

(g) research of the marine environment, including hydrographic research;

(h) the prevention of infringement of the customs, fiscal, immigration, quarantine or sanitary regulations of the coastal State;

(i) the prevention of infringement of the fisheries regulations of the coastal State, including inter alia those relating to the storage of gear.

2. Such laws and regulations may not embody any requirements relating to ship design, construction, manning or equipment which are more restrictive than those provided by the International Convention for the Prevention of Pollution from Ships, 1973, or of any subsequent international convention of general application.

3. The coastal State shall give due publicity to all laws and regulations made by it under the provisions of this article.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

5. During their passage through the territorial sea, foreign ships, including marine research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the coastal State.

/...

6. A coastal State may require foreign ships exercising the right of innocent passage through its territorial sea to use such sealanes and traffic separation schemes, including depth separation schemes, as may be designated or prescribed by the coastal State for the regulation of the passage of ships.

7. A coastal State may from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

8. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article a coastal State shall take into account:

(a) the recommendations of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels; and

(d) the special characteristics of particular ships.

9. The coastal State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

10. Foreign ships exercising the right of innocent passage through the territorial sea shall, when passing through sealanes and traffic separation schemes designated or prescribed by the coastal State under the provisions of this article, comply with all international regulations relating to the prevention of collisions at sea.

11. If in the application of its laws and regulations, a coastal State acts in a manner contrary to the provisions of these articles and loss or damage results to any foreign ship exercising the right of innocent passage through the territorial sea, the coastal State shall compensate the owners of such ship for that loss or damage.

Subsection C. Ships having special characteristics

Article 6

1. Submarines and other underwater vehicles may be required to navigate on the surface and to show their flag except in cases where they:

(a) have given prior notification of their passage to the coastal State; and

(b) if so required by the coastal State, confine their passage to such sealanes as may be designated for that purpose by the coastal State.

2. Tankers and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to give prior notification of their passage to the coastal State and to confine their passage to such sealanes as may be designated for that purpose by the coastal State.

/...

3. For the purposes of this article, the term "tanker" includes any ship used for the carriage in bulk in a liquid state of petroleum, natural gas or any other highly inflammable, explosive or pollutive substance.

4. In order to expedite the passage of ships through the territorial sea the coastal State shall ensure that the procedures for notification under the provisions of this article shall be such as not to cause any undue delay.

SECTION II. RULES APPLICABLE TO MERCHANT SHIPS

Article 7

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

Article 8

1. The criminal jurisdiction of the coastal State shall not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed on board the ship during its passage, save only in the following cases:

(a) if the consequences of the crime extend to the coastal State; or

(b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) if the assistance of the local authorities has been requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) if it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The provisions of paragraph 1 of this article do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving any port in the coastal State.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

/...

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connexion with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering any port in the coastal State.

Article 9

1. The coastal State shall not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its passage through the waters of the coastal State.

3. The provisions of paragraph 2 of this article are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving any port in the coastal State.

SECTION III. RULES APPLICABLE TO GOVERNMENT SHIPS

Subsection A. Government ships other than warships

Article 10

The rules contained in sections I and II of these articles shall apply to government ships operated for commercial purposes.

Article 11

1. The rules contained in section I and in article 7 of these articles shall apply to government ships operated for non-commercial purposes.

2. With such exceptions as are contained in paragraph 1 of this article or in article 14 of these articles nothing in these articles affects the immunities which such ships enjoy under the provisions of these articles or other rules of international law.

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Subsection B. Warships

Article 12

1. For the purposes of this article, the term "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ship of its nationality, under the command of an officer duly commissioned by the Government of that State and whose name appears in the appropriate service list or its equivalent, and manned by a crew who are under regular armed forces discipline.

2. The rules contained in section I of these articles shall apply to warships.

3. Foreign warships exercising the right of innocent passage shall not, in the territorial sea, carry out any manoeuvres other than those having direct bearing on passage.

4. If any warship does not comply with the laws and regulations of the coastal State relating to passage through the territorial sea or fails to comply with the requirements of paragraph 3 of this article, and disregards any request for compliance which is made to it, the coastal State may suspend the right of passage of such warship and may require it to leave the territorial sea by such route as may be directed by the coastal State.

Article 13

With such exceptions as are contained in articles 12 and 14 of these articles nothing in these articles affects the immunities which warships enjoy under the provisions of these articles or other rules of international law.

Subsection C. Liability of government ships

Article 14

If, as a result of any non-compliance by any warship or other government ship operated for non-commercial purposes with any of the laws or regulations of the coastal State relating to passage through the territorial sea or with any of the provisions of these articles or other rules of international law, any damage is caused to the coastal State, including its environment and any of its facilities, installations or other property, or to any of its flag vessels, international responsibility for such damage shall be borne by the flag State of the ship causing such damage.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

SECOND COMMITTEE

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DRAFT ARTICLES ON THE TERRITORIAL SEA

People's Republic of Bulgaria, German Democratic Republic, Polish People's Republic, Union of Soviet Socialist Republics

SECTION I

Nature and characteristics of the territorial sea and its breadth

Article 1

1. The sovereignty of a coastal State extends beyond its land territory and its internal waters to a belt of sea adjacent to its coast or to its internal waters and described as the territorial sea.

2. The sovereignty of a coastal State extends also to the air space over the territorial sea as well as to the bed and subsoil thereof. All the resources of the territorial sea are under the sovereignty of the coastal State.

3. The coastal State exercises this sovereignty subject to the provisions of these articles and to other rules of international law.

Article 2

Each State has the right to determine the breadth of its territorial sea within a maximum limit of 12 nautical miles, measured from the baselines determined in accordance with articles ... of this Convention, and subject to the provisions of articles ... concerning straits used for international navigation.

SECTION II

Method of measuring and delimiting the territorial sea

(Articles 3-13)*

* Add here the text of articles 3 to 13 of the Convention on the Territorial Sea and the Contiguous Zone, 1958.

SECTION III

Right of innocent passage through the territorial sea

Subsection A. Rules applicable to all ships

Article 14

Subject to the provisions of the articles of this section, ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea.

Passage of straits used for international navigation is governed by articles ... of this Convention.

Article 15

1. Innocent passage means navigation through the territorial sea for the purpose either of traversing that sea without entering internal waters, or of proceeding to or from internal waters.

2. Innocent passage includes stopping and anchoring provided they are incidental to ordinary navigation or navigating conditions or are rendered necessary by force majeure or by distress.

Article 16

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with these articles and with other rules of international law.

2. Passage of a foreign ship shall be considered innocent so long as it does not engage in any of the following in the territorial sea:

(a) Any threat or use of force either against the territorial integrity or the political independence of the coastal State or in any other way incompatible with the Charter of the United Nations;

(b) Any exercises or gunfire, launching of missiles or other use of weapons of any kind;

(c) The launching or taking on board of any aircraft;

(d) The unloading or loading of any cargo in violation of the laws of the coastal State;

(e) The disembarking or embarking of any person in violation of the laws of the coastal State;

/...

(f) Deliberate acts interfering with any system of communication of the coastal State;

(g) Deliberate acts interfering with any other facilities or installations of the coastal State.

The provisions of subparagraphs (e) to (g) of this article shall not apply to any activity carried out with the prior authorization of the coastal State or rendered necessary by force majeure or by distress.

3. Passage of foreign fishing vessels shall not be considered innocent if they do not observe such laws and regulations as the coastal State may make and publish in order to prevent them from fishing in the territorial sea.

4. Submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 17

1. Foreign nuclear-powered ships and ships carrying nuclear substances shall, during passage through territorial waters, observe special precautionary measures and carry papers established for such ships by international agreements.

2. In exercising their right of passage, foreign scientific research, hydrographic survey and other ships may not carry out any marine research or surveys without previous authorization from the coastal State.

Article 18

1. The coastal State shall not hamper innocent passage through the territorial sea or discriminate amongst foreign ships in respect of such passage.

2. The coastal State is required to give appropriate publicity to any navigational hazards of which it has knowledge, within its territorial sea.

Article 19

1. The coastal State may take the necessary steps in its territorial sea to prevent non-innocent passage.

2. In the case of ships proceeding to internal waters, the coastal State shall also have the right to take the necessary steps to prevent any breach of the conditions to which the admission of those ships to those waters is subject.

3. The coastal State may, without discrimination among foreign ships, suspend temporarily and in specified areas of its territorial sea the right of innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been given due publicity and on the condition that the other shortest routes for innocent passage have at the same time been designated.

Article 20

1. The coastal State may adopt laws and regulations in respect of innocent passage through its territorial sea. Such laws and regulations shall comply with the provisions of the present Convention and other rules of international law and may be in respect of the following questions.

(a) The safety of navigation and the regulation of sea navigation;

(b) The prevention of destruction of, or damage to, installations or aids to navigation;

(c) The prevention of destruction of, or damage to, facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil of the territorial sea;

(d) Prevention of damage to communication lines and electrical transmissions;

(e) The preservation of the environment and prevention of pollution of the coastal waters and shores of the State in accordance with articles ... of the present Convention;

(f) Scientific exploration of the marine environment, including water density, the sea-bed and the subsoil of the territorial sea;

(g) Prevention of infringement of the customs, fiscal, immigration, sanitary and phyto-sanitary regulations of the coastal State;

(h) Prevention of fishing by foreign vessels in the territorial sea.

2. Such laws and regulations shall not relate to questions concerning the construction, manning, equipment or technical gear of foreign ships or impose requirements on such ships which may have the practical effect of denying or seriously prejudicing their right of innocent passage in accordance with the present Convention.

3. The coastal State shall give due publicity to all laws and regulations on innocent passage.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations of the coastal State.

5. The coastal State shall ensure that the application or such laws and regulations in respect of foreign ships enjoying the right of innocent passage is in conformity with the provisions of the present Convention. The coastal State shall be answerable to the State whose flag the ship flies for any damage caused to that ship as a result of the application of the laws or regulations of the coastal State in a manner contrary to the provisions of the present Convention.

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Article 21

In areas of the territorial sea in which navigation conditions make it so desirable, the coastal State may introduce sea-lanes and traffic separation schemes and shall ensure that these are clearly indicated on the charts and that they are given due publicity.

Article 22

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.

2. Charges may be levied upon a foreign ship passing through the territorial sea only as payment for specific services rendered to the ships. These charges shall be levied without discrimination.

Subsection B. Rules applicable to merchant ships

Article 23

1. Criminal jurisdiction of the coastal State shall not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct an investigation in connexion with a crime committed on board the ship during its passage, save only in the following cases:

(a) If the consequences of the crime extend to the coastal State; or

(b) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(c) If the assistance of the local authorities is requested by the captain of the ship or by the consul of the country whose flag the ship flies; or

(d) If it is necessary for the suppression of illicit traffic in narcotic drugs.

2. The provisions set forth above do not affect the right of the coastal State, when there is justification, to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2 of this article, the coastal State shall, if the captain so requests, advise the consular authority of the flag State before taking any steps, and shall facilitate contact between such authority and the ship's crew. In cases of extreme urgency this notification may be communicated while the measures are being taken.

4. In considering whether or how an arrest should be made, the local authorities shall pay due regard to the interests of navigation.

5. The coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct an investigation in connexion

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with a crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering the internal waters of the State concerned.

Article 24

1. The coastal State shall not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its passage through the waters of the coastal State.

3. The provisions of the previous paragraph are without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of civil proceedings, a foreign ship lying in the territorial sea or passing through the territorial sea after leaving internal waters.

4. Government ships operated for commercial purposes in foreign territorial waters shall enjoy immunity, and therefore the measures referred to in this article may be applied to them only with the consent of the State whose flag the ship flies.

Subsection C. Rules applicable to government ships operated for non-commercial purposes

Article 25

1. The rules contained in subsection A shall apply to government ships operated for non-commercial purposes.

2. Except in the cases provided for in the provisions referred to in the previous paragraph nothing in these articles affects the immunities which such ships enjoy under these articles or other rules of international law.

Subsection D. Rules applicable to warships

Article 26

The rules contained in subsection A shall apply to foreign warships, but nothing in this Convention shall affect the immunity which warships enjoy in accordance with the generally accepted rules of international law.

Article 27

If any warship does not comply with the regulations of the coastal State relating to passage through the territorial sea and disregards a request for compliance which is made to it, the coastal State may require the warship to leave the territorial sea.

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Austria, Belgium, Bolivia, Botswana, Byelorussian Soviet Socialist Republic, Czechoslovakia, Federal Republic of Germany, Finland, Hungary, Laos, Lesotho, Luxembourg, Mongolia, Netherlands, Paraguay, Singapore, Swaziland, Sweden, Switzerland, Uganda, Upper Volta and Zambia: draft articles on territorial sea

Explanatory Note

The following draft articles on the territorial sea reflect the basic attitude of the sponsors concerning some questions relating to the territorial sea. Regarding the problem of delimitation of the boundary lines of the territorial seas in the case of opposite or adjacent coasts, the sponsors recognize the need for further elaboration of the rules laid down in the respective Geneva Conventions and are willing to listen in a spirit of compromise to any suggestion which may be made on the subject.

The proposal contained in document A/CONF.62/C.2/L.14 is considered a very valuable basis for discussion of this matter.

The problem of the semi-enclosed seas has not been referred to in the present draft articles; the sponsors nevertheless wish to indicate their willingness to consider any formula relating thereto.

Article

1. The sovereignty of a State extends, beyond its land territory and internal waters, to a belt of sea adjacent to its coast, described as the territorial sea.

2. The sovereignty of a coastal State extends to the air space over the territorial sea as well as to its bed and subsoil.

3. This sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Article

1. Each State shall have the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines drawn in accordance with articles ... of this Convention.

2. The right referred to in paragraph 1 shall not be exercised by a State in such a manner as to cut off from the high seas the territorial sea of another State or any part thereof.

Article _____

Except where otherwise provided in these articles, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

Article _____

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

4. Where the method of straight baselines is applicable under the provisions of paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

5. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

6. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article _____

1. Waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with article ... has the effect of enclosing as internal waters areas which have previously been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in articles ..., shall exist in those waters.

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Article

1. This article relates only to bays, the coasts of which belong to a single State.

2. For the purpose of these articles, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water areas of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed ... miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds ... miles, a straight baseline of ... miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provision shall not apply to so-called "historic" bays or in any case where the straight baseline system provided for in article ... is applied.

Article

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form part of the harbour system and which are above water at high tide shall be regarded as forming part of the coast.

Article

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts, together with their boundaries, to which due publicity must be given.

Article

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

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Jamaica: draft articles on item 2.1

Rights of developing geographically disadvantaged States within a territorial sea beyond 12 miles

Article 1

The régime applicable to any territorial sea extending beyond 12 miles provided for in article ... of this Convention shall be subject to the rights of developing geographically disadvantaged States as contained in articles 2, 3, 4 and 5 of this draft.

Article 2

1. In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within any territorial sea extending beyond 12 miles in such a region, for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of their populations.

2. The States of the region shall co-operate to the fullest extent in order to secure the enjoyment of this right.

Article 3

Except as provided in article 4, nothing in articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.

Article 4

In the application of articles 1 and 2 to the Associated States, self-governing territories and territories under foreign domination, the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

Article 5

For the purposes of these articles:

1. 'geographically disadvantaged States' means developing States which are

(a) land-locked; or

(b) for geographical, biological or ecological reasons

(i) derive no substantial economic advantage from establishing a territorial sea extending beyond 12 miles; or

(ii) are adversely affected in their economies by the establishment of a territorial sea beyond 12 miles by other States; or

(iii) have short coastlines and cannot extend uniformly their national jurisdiction.

2. "nationals" include enterprises substantially owned and effectively controlled by nationals.

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Second Committee

PEOPLE'S REPUBLIC OF BULGARIA, CZECHOSLOVAK SOCIALIST REPUBLIC, GERMAN DEMOCRATIC REPUBLIC, POLISH PEOPLE'S REPUBLIC, UKRAINIAN SOVIET SOCIALIST REPUBLIC, UNION OF SOVIET SOCIALIST REPUBLICS: DRAFT ARTICLES ON STRAITS USED FOR INTERNATIONAL NAVIGATION

Article 1

1. In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the equal freedom of navigation for the purpose of transit passage through such straits.

In the case of narrow straits or straits where such provision is necessary to ensure the safety of navigation, coastal States may designate corridors suitable for transit by all ships through such straits. In the case of straits where particular channels of navigation are customarily employed by ships in transit, the corridors shall include such channels. In the case of any change of such corridors, the coastal State shall give notification of this to all other States in advance.

2. The freedom of navigation provided for in this article for the purpose of transit passage through straits shall be exercised in accordance with the following rules:

(a) Ships in transit through the straits shall not cause any threat to the security of the coastal States of the straits, or to their territorial inviolability or political independence. Warships in transit through such straits shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, launch or land their aircraft, undertake hydrographical work or engage in other similar acts unrelated to the transit. In the event of any accidents, unforeseen stops in the straits or any acts rendered necessary by force majeure, all ships shall inform the coastal States of the straits;

(b) Ships in transit through the straits shall strictly comply with the international rules concerning the prevention of collisions between ships or other accidents.

In all straits where there is heavy traffic, the coastal State may, on the basis of recommendations by the Inter-Governmental Marimite Consultative Organization, designate a two-way traffic separation governing passage, with a clearly indicated dividing line. All ships shall observe the established order of traffic and the dividing line. They shall also avoid making unnecessary manoeuvres;

(c) Ships in transit through the straits shall take all precautionary measures to avoid causing pollution of the waters and coasts of the straits, or any other kind of damage to the coastal States of the straits. Supertankers in transit through the straits shall take special precautionary measures to ensure the safety of navigation and to avoid causing pollution;

(d) Liability for any damage which may be caused to the coastal States of the straits, their citizens or juridical persons by the ship in transit, shall rest with the owner of the ship or other person liable for the damage, and in the event that such compensation is not paid by them for such damage, with the flag-State of the ship;

(e) No State shall be entitled to interrupt or suspend the transit of ships through the straits, or engage therein in any acts which interfere with the transit of ships, or require ships in transit to stop or communicate information of any kind;

(f) The coastal State shall not place in the straits any installations which could interfere with or hinder the transit of ships.

3. The provisions of this article:

(a) shall apply to straits lying within the territorial sea of one or more coastal States;

(b) shall not affect the sovereign rights of the coastal States with respect to the surface, the sea-bed and the living and mineral resources of the straits;

(c) shall not affect the legal régime of straits through which transit is regulated by international agreements specifically relating to such straits.

Article 2

In the case of straits leading from the high seas to the territorial sea of one or more foreign States and used for international navigation, the principle of innocent passage for all ships shall apply and this passage shall not be suspended.

Article 3

1. In the case of straits over which the air space is traditionally used for transit flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy equal freedom of transit overflight over such straits. Coastal States may designate special air corridors suitable for overflight by aircraft, and special altitudes for aircraft flying in different directions, and may establish particulars for radio-communication with them.

2. The freedom of transit overflight by aircraft over the straits, as provided for in this article, shall be exercised in accordance with the following rules:

(a) Overflying aircraft shall take the necessary steps to keep within the boundaries of the corridors and at the altitude designated by the coastal States for

 /...

flights over the straits, and to avoid overflying the land territory of a coastal State, unless such overflight is provided for by the delimitation of the corridor designated by the coastal State.

(b) Overflying aircraft shall not cause any threat to the security of the coastal States, their territorial inviolability or political independence; in particular military aircraft shall not in the area of the straits engage in any exercises or gunfire, use weapons of any kind, take aerial photographs, circle or dive down towards ships, take on fuel or engage in other similar acts unrelated to overflight;

(c) Liability for any damage which may be caused to the coastal States of the straits or their citizens or juridical persons by the aircraft overflying the straits shall rest with the owner of the aircraft or other person liable for the damage and in the event that compensation is not paid by them for such damage, with the State in which the aircraft is registered;

(d) No State shall be entitled to interrupt or suspend the transit overflight of aircraft, in accordance with this article, in the air space over the straits.

3. The provisions of this article:

(a) shall apply to transit flights by aircraft over straits lying within the territorial sea of one or more coastal States;

(b) shall not affect the legal régime of straits over which overflight is regulated by international agreements specifically relating to such straits.

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Second Committee

Netherlands: draft article on delimitation between States with opposite or adjacent coasts

1. Where the determination of sea areas under articles ..... (territorial sea, continental shelf, economic zone) by adjacent or opposite States up to the maximum limit would result in overlapping areas, the marine boundaries between those States shall be determined, by agreement between them, in accordance with equitable principles, taking into account all relevant circumstances.

2. Pending such agreement, neither of the States is entitled to establish its marine boundaries beyond the line, every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial sea of each State is measured.

3. If a State concerned refuses to enter into or to continue negotiations, or if no agreement is reached within ..... after negotiations have been commenced, the procedure of conciliation of the type provided for in article 66 (b) and the annex of the 1969 Vienna Convention on the Law of Treaties may be set in motion by any of the States concerned.

4. If agreement is not reached within ..... after the Conciliation Commission has made its final recommendations, the question of delimitation may be submitted, by any of the States concerned, to the procedure for the compulsory judicial settlement of disputes, provided for in article ..... of the present Convention.

Explanatory note

1. In all cases where, under the new Convention on the Law of the Sea, coastal States would be entitled to extend some form of national jurisdiction over sea areas adjacent to their coasts up to a determined maximum limit, the question of delimitation as between adjacent or opposite coastal States may arise. The present proposal intends to lay down substantive guidelines for the solution of this question (para. 1) as well as procedures for their application (paras. 1, 3 and 4) and interim solutions to be applied pending the final determination of the delimitation lines (para. 2).

/...

C-0410
74-19732

2. The normal procedure of delimitation should be by agreement between the States concerned. Paragraph 1 of the present proposal embodies this principle and states guidelines for the negotiation of such agreement. Among the "equitable principles", there mentioned, figures the principle of equidistance, which, in many situations, will result in an equitable delimitation. There are, however, circumstances in which this would not be the case, and paragraph 1 accordingly prescribes the taking into account of all circumstances relevant for reaching an equitable solution.

3. Experience has learned that adjacent or opposite States may need the advice and help of an impartial body of persons in order to reach agreement on delimitation. Similar considerations have led the United Nations Conference on the Law of Treaties of 1969 to adopt a compulsory system of conciliation. Paragraph 3 of the present proposal suggests the application of that system - possibly with some adaptation as to the details - to the question of delimitation.

4. Under the Law of Treaties Convention the report of the Conciliation Commission, containing its final recommendations, is not binding and, consequently, this procedure cannot in itself produce a final solution of the delimitation question. Accordingly paragraph 4 of the present proposal suggests that, if negotiations and conciliation have finally failed to bring the parties to an agreement, judicial settlement of the dispute should take place, in conformity with the rules to be set out elsewhere in the new Convention on the Law of the Sea.

5. The final settlement of the question of delimitation may take a long time. It would seem essential that pending such settlement - through agreement or through judicial pronouncement - and without prejudice to such final solution, some interim rule should apply. In the first phase of the procedure only an automatically applicable rule could serve the purpose of restraining unilateral measures of the States concerned (para. 2 of the present proposal).

However, as soon as the second phase of the procedure - i.e. conciliation - has started, under paragraph 4 of the annex to the Vienna Convention on the Law of Treaties, the Conciliation Commission may at any time "draw the attention of the parties to the dispute to any measure which might facilitate an amicable settlement".

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ROMANIA: QUESTIONS OF THE DELIMITATION OF MARINE AND OCEAN SPACE BETWEEN ADJACENT AND OPPOSITE NEIGHBOURING STATES, VARIOUS ASPECTS INVOLVED

(Items 2.3.1, 3; 5.3; 6.7.2; 19 (b))

ARTICLE 1

The delimitation of all the marine or ocean space between two neighbouring States shall be effected by agreement between them in accordance with equitable principles, taking into account all the circumstances affecting the marine or ocean area concerned and all relevant geographical, geological or other factors.

ARTICLE 2

1. The delimitation of any marine or ocean space shall, in principle, be effected between the coasts proper of the neighbouring States, using as a basis the relevant points on the coasts or on the applicable baselines, so that the areas situated off the sea frontage of each State are attributed thereto.

2. Islands which are situated in the maritime zones to be delimited shall be taken into consideration in the light of their size, their population or the absence thereof, their situation and their geographical configuration, as well as other relevant factors.

3. Low-tide elevations, islets and islands that are similar to islets (of small size, uninhabited and without economic life) which are situated outside the territorial waters off the coasts and which constitute eminences on the continental shelf - whether light-houses or other installations have been built on them or not - and man-made islands - regardless of their dimensions and characteristics - shall not be taken into consideration in the delimitation of marine or oce n space between neighbouring States.

4. The naturally formed areas of land referred to in paragraph 3 may have around them or around some of their sectors maritime safety areas or even territorial waters, provided they do not affect marine spaces belonging to the coasts of neighbouring States.

5. The provisions of the present article shall not be applicable to islands and to other naturally formed areas of land which constitute part of an island State or of an archipelagic State.

ARTICLE 3

The delimitation of space between two neighbouring States, whether they be adjacent or opposite, or whether they have both of these two geographical characteristics simultaneously, shall be governed by the method or combination of methods which provides the most equitable solution. For example, neighbouring States may use, exclusively or jointly, the geographical parallel or the perpendicular line from the terminal point of the land or river frontier, equidistance, or the median line of the points closest to the coasts or their baselines.

The terminal point of a river frontier shall be considered as the immediate influence of the river and the sea, irrespective of whether the river flows into the sea in the form of an estuary.

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23 July 1974
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SECOND COMMITTEE

ALGERIA: STRAITS USED FOR INTERNATIONAL NAVIGATION: SEMI-ENCLOSED SEAS

Article 1

1. Merchant ships and government ships operated for commercial purposes which are proceeding to or from a coastal State bordering a semi-enclosed sea whose access to ocean space lies exclusively through straits connecting two parts of the high seas and traditionally used for international navigation shall enjoy the right of free transit for this purpose.

2. The régime of passage provided for in this article shall, however, be applied in accordance with the following provisions:

(a) During passage, ships shall observe all international regulations concerning the prevention of collisions and shall accordingly comply with such traffic separation schemes as may derive from this convention or from recommendations by IMCO.

(b) Ships shall likewise take all preventive measures necessary to avoid causing any damage to the coastal States bordering the straits.

(c) Damage caused to the coastal State as a result of the exercise by a ship of the right of passage under the régime of free transit shall entitle that State to claim compensation.

(d) No State shall be entitled to interrupt or suspend free transit through straits or to take any measures likely to hamper such transit.

3. The provisions of this article:

(a) Apply only to straits which connect two parts of the high seas and which are traditionally used for international navigation;

(b) Do not apply to straits already regulated by international conventions.

Article 2

1. Warships and government ships operated for non-commercial purposes which are passing through straits under the conditions provided for in article 1, paragraph 1, shall enjoy the right of innocent passage.

2. The régime of innocent passage must be established in such a way as to safeguard the legitimate rights and interests of coastal States with regard, inter alia, to national security and safety of navigation.

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SECOND COMMITTEE

Turkey: draft article on item 5

5.3 Question of the delimitation between States; various aspects involved

1. Where the coasts of two or more States are adjacent and/or opposite, the continental shelf areas appertaining to each State, shall be determined by agreement among them, in accordance with equitable principles.

2. In the course of negotiations, the States shall take into account all the relevant factors, including, inter alia, the geomorphological and geological structure of the shelf up to the outer limit of the continental margin, and special circumstances such as the general configuration of the respective coasts, the existence of islands, islets or rocks of one State on the continental shelf of the other.

3. The States shall make use of any of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them, in case any of the parties refuses to enter into or continue negotiations or in order to resolve differences which may arise during such negotiations.

4. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimitation based on agreement.

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SECOND COMMITTEE

Japan: draft article under item 5

1. The coastal State exercises over the sea-bed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, hereinafter referred to as the coastal sea-bed area, sovereign rights for the purpose of exploring it and exploiting its mineral resources.

2. The coastal State shall have the right to establish the coastal sea-bed area up to a maximum distance of 200 nautical miles from the baseline for measuring the breadth of the territorial sea as set out in ...

3. (1) Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the boundary of the coastal sea-bed area appertaining to such States shall be determined by agreement between them in accordance with the principle of equidistance.

(2) Failing such agreement, no State is entitled to extend its sovereign rights over the coastal sea-bed area beyond the median line, every point of which is equidistant from the nearest points of the baselines, continental or insular, from which the breadth of the territorial sea of each State is measured.

4. Nothing provided herein shall prejudice the existing agreements between the coastal States concerned relating to the delimitation of the boundary of their respective coastal sea-bed area.

C-0745

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Dominican Republic: draft article on straits and waterways

The principle of prior negotiation shall be adopted between States having common waterways and straits before either of them undertakes any works or installations liable to result in pollution of any kind for the other coastal State.

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SECOND COMMITTEE

United States of America: draft articles for a chapter on the economic zone and the continental shelf*

PART I. THE ECONOMIC ZONE

A. Coastal State Jurisdiction

Article 1. General

1. The coastal State exercises in and throughout an area beyond and adjacent to its territorial sea, known as the economic zone, the jurisdiction and the sovereign and exclusive rights set forth in this chapter for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters.

2. The coastal State exercises in the economic zone the other rights and duties specified in this Convention, including those with regard to the protection and preservation of the marine environment and the conduct of scientific research.**

3. The exercise of these rights shall be in conformity with and subject to the provisions of this Convention, and shall be without prejudice to the provisions of part III of this chapter.

Article 2. Limits

The outer limit of the economic zone shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

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* These articles, which are presented as a basis for negotiation subject to agreement on other basic questions of the law of the sea, replace in their entirety draft articles on fisheries and the coastal sea-bed economic area contained in documents A/AC.138/SC.II/L.9 /Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721, pp. 175-179) and A/AC.138/SC.II/L.35, ibid., Twenty-eighth Session, Supplement No. 21 (A/9021, vol. III, pp. 75-77)/.

** Detailed provisions on these subjects are to be set forth in the chapters of the Convention on scientific research and pollution.

Article 3. Artificial Islands and Installations

1. The coastal State shall have the exclusive right to authorize and regulate, in the economic zone, the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources, or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State in the economic zone.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation.

3. The provisions of article 28 shall apply, mutatis mutandis, to such artificial islands and installations.

Article 4. Drilling

The coastal State shall have the exclusive right to authorize and regulate drilling for all purposes in the economic zone.

Article 5. Right to Protect the Marine Environment

In exercising its rights with respect to installations and sea-bed activities in the economic zone, the coastal State may establish standards and requirements for the protection of the marine environment additional to or more stringent than those required by applicable international standards.

Article 6. Coastal State Measures

With respect to activities subject to its sovereign or exclusive rights, the coastal State may take such measures in the economic zone as may be necessary to ensure compliance with its laws and regulations in conformity with the provisions of this Convention.

B. International Standards and Duties

Article 7. Navigation, Overflight, and Other Rights

Nothing in this chapter shall affect the rights of freedom of navigation and overflight, and other rights recognized by the general principles of international law, except as otherwise specifically provided in this Convention. The provisions of this article do not apply to activities for which the authorization of the coastal State is required pursuant to this Convention.

/...

Article 8. Unjustifiable Interference

1. The coastal State shall exercise its rights and perform its duties in the economic zone without unjustifiable interference with navigation or other uses of the sea, and ensure compliance with applicable international standards established by the appropriate international organizations for this purpose.

2. In exercising their rights, States shall not unjustifiably interfere with the exercise of the rights or the performance of the duties of the coastal State in the economic zone.

Article 9. Duty to Protect the Marine Environment

In exercising its rights with respect to installations and sea-bed activities, the coastal State shall take all appropriate measures in the economic zone for the protection of the marine environment from pollution, and ensure compliance with international minimum standards for this purpose established in accordance with the provisions of chapter ___ (pollution).

Article 10. Dispute Settlement

Any dispute with respect to the interpretation or application of this chapter shall, if requested by any party to the dispute, be resolved by the compulsory dispute settlement procedures contained in chapter ___.

/...

PART II. FISHERIES

Article 11. General

The coastal State exercises exclusive rights for the purpose of regulating fishing within the economic zone, subject to the provisions of these articles.

Article 12. Conservation

1. The coastal State shall ensure the conservation of renewable resources within the economic zone.

2. For this purpose, the coastal State shall apply the following principles:

(a) allowable catch and other conservation measures shall be established which are designed, on the best evidence available to the coastal State, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global and regional minimum standards;

(b) such measures shall take into account effects on species associated with or dependent upon harvested species and at a minimum, shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction;

(c) for this purpose, scientific information, catch and fishing effort statistics, and other relevant data shall be contributed and exchanged on a regular basis;

(d) conservation measures and their implementation shall not discriminate in form or fact against any fisherman. Conservation measures shall remain in force pending the settlement, in accordance with the provisions of chapter ___, of any disagreement as to their validity.

Article 13. Utilization

1. The coastal State shall ensure the full utilization of renewable resources within the economic zone.

2. For this purpose, the coastal State shall permit nationals of other States to fish for that portion of the allowable catch of the renewable resources not fully utilized by its nationals, subject to the conservation measures adopted pursuant to article 12, and on the basis of the following priorities:

(a) States that have normally fished for a resource, subject to the conditions of paragraph 3;

(b) States in the region, particularly land-locked States and States with limited access to living resources off their coast; and

(c) all other States.

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The coastal State may establish reasonable regulations and require the payment of reasonable fees for this purpose.

3. The priority under paragraph 2 (a) above shall be reasonably related to the extent of fishing by such State. Whenever necessary to reduce such fishing in order to accommodate an increase in the harvesting capacity of a coastal State, such reduction shall be without discrimination, and the coastal State shall enter into consultations for this purpose at the request of the State or States concerned with a view to minimizing adverse economic consequences of such reduction.

4. The coastal State may consider foreign nationals fishing pursuant to arrangements under articles 14 and 15 as nationals of the coastal State for purposes of paragraph 2 above.

Article 14. Neighbouring Coastal States

Neighbouring coastal States may allow each others' nationals the right to fish in a specified area of their respective economic zones on the basis of reciprocity, or long and mutually recognized usage, or economic dependence of a State or region thereof on exploitation of the resources of that area. The modalities of the exercise of this right shall be settled by agreement between the States concerned. Such right cannot be transferred to third parties.

Article 15. Land-locked States

Nationals of a land-locked State shall enjoy the privilege to fish in the neighbouring area of the economic zone of the adjoining coastal State on the basis of equality with the nationals of that State. The modalities of the enjoyment of this privilege shall be settled by agreement between the parties concerned.

Article 16. International Co-operation Among States

1. States shall co-operate in the elaboration of global and regional standards and guidelines for the conservation, allocation, and rational management of living resources directly or within the framework of appropriate international and regional fisheries organizations.

2. Coastal States of a region shall, with respect to fishing for identical or associated species, agree upon the measures necessary to co-ordinate and ensure the conservation and equitable allocation of such species.

3. Coastal States shall give to all affected States timely notice of any conservation, utilization and allocation regulations prior to their implementation, and shall consult with such States at their request.

Article 17. Assistance to Developing Countries

An international register of independent fisheries experts shall be established and maintained by the Food and Agricultural Organization of the United Nations. Any developing State party to the Convention desiring assistance may select an appropriate number of such experts to serve as fishery management advisers to that State.

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Article 18. Anadromous Species

1. Fishing for anadromous species seaward of the territorial sea (both within and beyond the economic zone) is prohibited, except as authorized by the State of origin in accordance with articles 12 and 13.

2. States through whose internal waters or territorial sea anadromous species migrate shall co-operate with the State of origin in the conservation and utilization of such species.

Article 19. Highly Migratory Species

Fishing for highly migratory species shall be regulated in accordance with the following principles:

A. Management. Fishing for highly migratory species listed in Annex A within the economic zone shall be regulated by the coastal State, and beyond the economic zone by the State of nationality of the vessel, in accordance with regulations established by appropriate international or regional fishing organizations pursuant to this article.

(1) All coastal States in the region, and any other State whose flag vessels harvest a species subject to regulation by the organization, shall participate in the organization. If no such organization has been established, such States shall establish one.

(2) Regulations of the organization in accordance with this article shall apply to all vessels fishing the species regardless of their nationality.

B. Conservation. The organization shall, on the basis of the best scientific evidence available, establish allowable catch and other conservation measures in accordance with the principles of article 12.

C. Allocation. Allocation regulations of the organization shall be designed to ensure full utilization of the allowable catch and equitable sharing by member States.

(1) Allocations shall take into account the special interests of the coastal State within whose economic zone highly migratory species are caught, and shall for this purpose apply the following principles within and beyond the economic zone: /insert appropriate principles/.

(2) Allocations shall be designed to minimize adverse economic consequences in a State or region thereof.

D. Fees. The coastal State shall receive reasonable fees for fish caught by foreign vessels in its economic zone, with a view to making an effective contribution to coastal State fisheries management and development programmes. The organization shall establish rules for the collection and payment of such fees, and shall make appropriate arrangements with the coastal State regarding the establishment and application of such rules. In addition, the organization may collect fees on a non-discriminatory basis based on fish caught both within and outside the economic zone for administrative and scientific research purposes.

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E. Prevention of Interference. The organization shall establish fishing regulations for highly migratory species in such a way as to prevent unjustifiable interference with other uses of the sea, including coastal State fishing activities, and shall give due consideration to coastal State proposals in this regard.

F. Transition. Pending the establishment of an organization in accordance with this article, the provisions of this article shall be applied temporarily by agreement among the States concerned.

G. Interim Measures. If the organization or States concerned are unable to reach agreement on any of the matters specified in this article, any State party may request, on an urgent basis, pending resolution of the dispute, the establishment of interim measures applying the provisions of this article pursuant to the dispute settlement procedures specified in chapter ____. The immediately preceding agreed regulations shall continue to be observed until interim measures are established.

Article 20. Marine Mammals

Notwithstanding the provisions of this chapter with respect to full utilization of living resources, nothing herein shall prevent a coastal State or international organization, as appropriate, from prohibiting the exploitation of marine mammals.

Article 21. Enforcement

1. The coastal State may, in the exercise of its rights under this chapter with respect to the renewable natural resources, take such measures, including inspection and arrest, in the economic zone, and, in the case of anadromous species, seaward of the economic zones of the host State and other States, as may be necessary to ensure compliance with its laws and regulations, provided that when the State of nationality of a vessel has effective procedures for the punishment of vessels fishing in violation of such laws and regulations, such vessels shall be delivered promptly to duly authorized officials of the State of nationality of the vessel for legal proceedings, and may be prohibited by the coastal State from any fishing in the zone pending disposition of the case. The State of nationality shall within six months after such delivery notify the coastal State of the disposition of the case.

2. Regulations adopted by international organizations in accordance with Article 19 shall be enforced as follows:

(a) Each State member of the organization shall make it an offence for its flag vessels to violate such regulations, and shall co-operate with other States in order to ensure compliance with such regulations.

(b) The coastal State may inspect and arrest foreign vessels in the economic zone for violating such regulations. The organization shall establish procedures for arrest and inspection by coastal and other States for violations of such regulations beyond the economic zone.

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(c) An arrested vessel of a State member of the organization shall be promptly delivered to the duly authorized officials of the flag State for legal proceedings if requested by that State.

(d) The State of nationality of the vessel shall notify the organization and the arresting State of the disposition of the case within six months.

3. Arrested vessels and their crew shall be entitled to release upon the posting of reasonable bond or other security. Imprisonment or other forms of corporal punishment in respect of conviction for fishing violations may be imposed only by the State of nationality of the vessel or individual concerned.

/...

PART III. THE CONTINENTAL SHELF

Article 22. General

1. The coastal State exercises sovereign rights over the continental shelf for the purpose of exploring and exploiting its natural resources.

2. The continental shelf is the sea-bed and subsoil of the submarine areas adjacent to and beyond the territorial sea to the limit of the economic zone or, beyond that limit, throughout the submerged natural prolongation of the land territory of the coastal State to the outer limit of its continental margin, as precisely defined and delimited in accordance with article 23.

3. The provisions of this article are without prejudice to the question of delimitation between adjacent and opposite States.

Article 23. Limits

(Provisions are needed for locating and defining the precise limit of the continental margin, and to provide a precise and permanent boundary between coastal State jurisdiction and the international sea-bed area.)

Article 24. Natural Resources

The natural resources referred to in article 22 consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

Article 25. Superjacent Waters

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters, or that of the air space above those waters.

Article 26. Application of Economic Zone Provisions

The provisions of part 1 of this chapter shall apply, mutatis mutandis, to the sea-bed and subsoil of the continental shelf.

Article 27. Duties with Respect to Non-Renewable Resources

In the exercise of its rights with respect to the non-renewable resources of the continental shelf, the coastal State:

(a) shall comply with legal arrangements which it has entered into with other contracting States, their instrumentalities, or their nationals in respect to the exploration or exploitation of such resources and shall not take property of such States, instrumentalities or nationals except for a public purpose on a non-discriminatory basis and with adequate provisions at the time for prompt payment of just compensation in an effectively realizable form, and

/...

(b) shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea or the 200-metre isobath, whichever is farther seaward (insert formula), to be used as specified in article _____, for international community purposes, particularly for the benefit of developing countries.

Article 28. Installations

1. The coastal State shall have the exclusive right to authorize and regulate on the continental shelf the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources or for other economic purposes, and of any installation which may interfere with the exercise of the rights of the coastal State.

2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and function of the installation. Ships of all nationalities must respect these safety zones.

3. The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the Inter-Governmental Maritime Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional standards, safety zones around installations for the exploration and exploitation of non-renewable resources of the sea-bed and subsoil may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

4. Due notice must be given of the construction of any such installations and the extent of safety zones, and permanent means for giving warning of the presence of such installations must be maintained. Any such installations which are abandoned or disused must be entirely removed.

5. States shall ensure compliance by vessels of their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

6. Installations and safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. For the purpose of this section, the term "installations" refers to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

/...

Article 29. Submarine Cables and Pipelines

1. Subject to its right to take reasonable measures for the exploration and exploitation of the natural resources of the continental shelf, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

2. Nothing in this article shall affect the jurisdiction of the coastal State over cables and pipelines constructed or used in connexion with the exploration or exploitation of its continental shelf or the operations of an installation under its jurisdiction, or its right to establish conditions for cables or pipelines entering its territory or territorial sea.

/...

ANNEX A

HIGHLY MIGRATORY SPECIES

1. Albacore Tuna
2. Bluefin Tuna
3. Bigeye Tuna
4. Skipjack Tuna
5. Yellowfin Tuna
6. Pomfrets
7. Marlin
8. Sailfishes
9. Swordfish
10. Sauries
11. Dolphin (fish)
12. Cetaceans (whales and porpoises)

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THIRD CONFERENCE ON THE LAW OF THE SEA

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Second Committee

Working Document submitted by Nicaragua

National Zone: Characteristics

1. The coastal State shall be entitled to a sea area adjacent to its coasts, up to a distance of 200 nautical miles measured from the applicable baseline. This area shall constitute the national sea of the coastal State. The delimitation of the national seas of adjacent or opposite coastal States shall be determined in accordance with the provisions of this Convention.

2. It shall be within the competence of the coastal State to make provision in its national sea for sovereign, jurisdictional or special powers, or combinations thereof with no limitations other than those provided for in this Convention.

3. The same right shall extend to the air space above the national sea, and to the submarine shelf which continues the territory of the State as far as the outer edge of the continental emersion. When the shelf does not extend as far as the outer limit of the national sea, the right of the coastal State shall extend to the sea-bed and the subsoil thereof as far as such outer limit.

4. The national sea, superjacent air space, submarine shelf and/or sea-bed and subsoil referred to in the preceding paragraph shall constitute the national zone of the coastal State, the integrity and inviolability of which shall be guaranteed by the international community.

5. Within the first 12 nautical miles of the national sea, beginning from the baseline drawn for such sea, the coastal State shall guarantee to foreign ships the right of innocent passage in accordance with the terms defined in this Convention.

6. In the national zone beyond the first 12 nautical miles referred to in the preceding paragraph, the coastal State shall guarantee to natural or juridical persons of third States that fishing, freedom of navigation, overflight, the laying of submarine cables and pipelines, and other legitimate uses of the zone shall be subject to no restrictions other than those provided for in this Convention and in treaties concluded subsequent thereto.

7. Straits used for international navigation shall be subject to the régime referred to in ...

8. Non-coastal and other geographically disadvantaged States shall benefit from the compensatory provisions of this Convention and from any preferences which they may obtain through treaties.

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SECOND COMMITTEE

Nigeria: draft articles on the exclusive economic zone

Article 1

THE RIGHTS AND COMPETENCES OF A COASTAL STATE

1. A coastal State has the right to establish beyond its territorial sea, an exclusive economic zone the outer limit of which shall not exceed 200 nautical miles measured from the applicable baselines for measuring the territorial sea.

2. A coastal State has the following rights and competences in its exclusive economic zone:

(a) exclusive right to explore and exploit the renewable living resources of the sea and the sea-bed;

(b) sovereign rights for the purpose of exploring and exploiting the non-renewable resources of the continental shelf, the sea-bed and the subsoil thereof;

(c) exclusive jurisdiction for the purpose of control, regulation and preservation of the marine environment including pollution control and abatement;

(d) exclusive jurisdiction for the purpose of protection, prevention and regulation of other matters ancillary to the rights and competences aforesaid and, in particular, the prevention and punishment of infringements of its customs, fiscal, immigration or sanitary regulations within its territorial sea and economic zone; and

(e) exclusive jurisdiction for the purpose of control, authorization and regulation of scientific research.

3. A coastal State shall have the exclusive right to authorize and regulate in the exclusive economic zone, the continental shelf, ocean bed and subsoil thereof, the construction, emplacement, operation and use of offshore islands and other installations for purposes of the exploration and exploitation of the non-renewable resources thereof.

4. A coastal State may establish a reasonable area of safety zones around its offshore artificial islands and other installations in which it may take appropriate measures to ensure the safety both of its installations and of navigation. Such safety zones shall be designed to ensure that they are reasonably related to the nature and functions of the installations.

Article 2

THE RIGHTS AND COMPETENCES OF OTHER STATES

1. All States shall have the following rights in the exclusive economic zone of a coastal State:

(a) freedom of navigation and overflight; and

(b) freedom of laying of submarine cables and pipelines.

2. All States may exercise, subject to an appropriate bilateral or regional arrangement or agreement, the competence to exploit an agreed level of the living resources of the zone.

Article 3

THE DUTIES OF A COASTAL STATE

1. A coastal State shall use its exclusive economic zone for peaceful purposes only.

2. A coastal State, in its exclusive economic zone, shall enforce applicable international standards regarding the safety of navigation.

3. A coastal State, in its exclusive economic zone, is under an international duty not to interfere without reasonable justification with:

(a) the freedom of navigation and overflight, and

(b) the freedom of laying of submarine cables and pipelines.

4. A coastal State shall not erect or establish artificial islands and other installations, including safety zones around them, in such a manner as to interfere with the use by all States of recognized sea lanes and traffic separation schemes essential to international navigation.

Article 4

THE DUTIES OF OTHER STATES

1. In the exclusive economic zone of the coastal State, all other States are duty bound not to interfere with the exercise by the coastal State of its rights and competences.

/...

2. In such an exclusive economic zone, all other States shall ensure compliance by vessels of their flag with:

(a) applicable international standards regarding the safety of navigation outside safety zones established by a coastal State around offshore artificial islands and other installations used for the exploration and exploitation of the non-renewable resources of the zone; and

(b) the regulations of the coastal State regarding the safety of the said offshore artificial islands and other installations as well as ancillary regulations of the coastal State regarding the enforcement of its customs, fiscal, immigration and sanitation laws.

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Corrigendum

Page 1, article 1, paragraph 3, third line

For offshore islands read offshore artificial islands.

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PART II

NATIONAL MARITIME ZONES

SECTION I

GENERAL

Article I

Zones

1. The national maritime zones comprise: (a) the internal or archipelagic waters, (b) the territorial sea, (c) the contiguous zone, (d) the economic zone, in which the coastal State exercises its national sovereignty or jurisdiction in accordance with the provisions of this Convention.

2. The national maritime zones extend up to a maximum seaward limit of 200 nautical miles.

Article 2

Maritime zones under national sovereignty

1. The sovereignty of a coastal State extends beyond its continental or insular territory to its: (a) internal or archipelagic waters, (b) territorial sea, (c) continental shelf area of the economic zone.

2. The sovereignty of a coastal State extends also beyond its continental or insular territory to the air space over the internal or archipelagic territory, to the air space over the internal or archipelagic waters, over the territorial sea, and to the sea-bed and subsoil thereof and to the continental shelf, as well as to their resources.

3. This sovereignty is exercised subject to the provisions of these articles and to the other rules of international law.

Article 3

Maritime zones under national jurisdiction

1. Subject to the provisions of this Convention the coastal State exercises jurisdiction over the contiguous zone and the economic zone.

SECTION II

INTERNAL OR ARCHIPELAGIC WATERS AND BASELINES

Article 4

Internal and archipelagic waters

1. Internal waters are the waters adjacent to the coast of a State on the landward side of the baseline of its territorial sea.

2. Archipelagic waters are the waters adjacent to the coast of archipelagic islands on the landward side of the baseline of their territorial sea in accordance with the provisions of this Convention.

Article 5

Baselines

1. Baseline is the line, normal or straight, which divides the internal or archipelagic waters from the territorial sea.

2. Normal baseline is the natural low water line along the continental or insular coast as marked on charts officially recognized by the coastal State.

3. Straight baseline is the line employed in drawing the line separating the internal or archipelagic waters from the territorial sea.

4. The method of straight baselines joining appropriate points of the coast may be employed: (a) where the natural coastline is indented and cut into, (b) in the case of bays under the provisions of this section, (c) if there is a fringe of islands (d) in the case of archipelagos.

5. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

6. Baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them.

/...

7. If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

8. The system of straight baselines may not be applied by a State in such a manner as to cut off from the high seas the territorial sea of another State.

9. The coastal State must clearly indicate straight baselines on charts, to which due publicity must be given.

Article 6

Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purpose of this article, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceed 24 miles, a straight base-line of 24 miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions shall not apply to so-called "historic" bays, or in any case where the straight base-line system provided for in article 5 is applied.

SECTION III

TERRITORIAL SEA

Article 7

Definition and breadth of the territorial sea

1. Territorial sea is the belt of sea extending from the outer limit of the internal or archipelagic waters to 12 nautical miles measured from the baselines, drawn in accordance with article 5 of Section II of this Convention.

2. The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

3. Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea. The coastal State must clearly demarcate such roadsteads and indicate them on charts together with their boundaries, to which due publicity must be given.

Article 8

Delimitation of the territorial sea

1. Every State shall have the right to determine the breadth of its territorial sea up to 12 nautical miles.

2. Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines continental or insular, from which the breadth of the territorial seas of each of the two States is measured.

3. The line of delimitation between the territorial seas of two States opposite or adjacent to each other shall be marked on charts officially recognized by the coastal States.

4. For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

5. Where the establishment of a territorial sea of 12 nautical miles has the effect of enclosing areas which had been previously considered as part of the high sea, the State extending its territorial sea shall ensure peaceful navigation through appropriate sea-lanes established for that purpose without prejudice to the régime of straits in accordance with the provisions of Section ... of this Convention.

Article 9

Islands

1. An island is a naturally formed area of land, surrounded by water which is above water at high-tide.

2. An island forms an integral part of the territory of the State to which it belongs. The territorial sovereignty over the island extends to its territorial sea, to the air space over the island and its territorial sea to its sea-bed and subsoil thereof and to the continental shelf for the purpose of exploring it and exploiting its natural resources.

3. The maritime zone of the island is determined in accordance with the same provisions applicable to the measurements of the territorial sea of the continental part of the territory of the State.

4. The above provisions do not prejudice the régime of archipelagic islands.

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9 August 1974

ENGLISH ONLY

SECOND COMMITTEE

Greece: draft articles of the Convention

Corrigendum

Page 5, article 9, paragraph 3

The first line should read:

The maritime zones of the island are determined in accordance with the same

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74-22241

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ON THE LAW OF THE SEA

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SECOND COMMITTEE

Greece: draft articles on the exclusive economic zone

Item 6. Exclusive economic zone beyond the territorial sea

Article ...

.....

Article ...

The provisions applicable for the determination of the economic zone of a State are as a general rule applicable to its islands.

Article ...

Article ...

1. Where the coasts of two or more States are adjacent or opposite to each other and the distance between them is less than double the uniform breadth, provided in this Convention, the delimitation of their economic zones and of their sea-bed areas shall be determined by agreement among themselves.

2. Failing such agreement, no State is entitled to extend its rights over an economic zone and sea-bed area beyond the limits of the median line every point of which is equidistant from the nearest points of the baselines, continental or insular, from which the breadth of the above areas of each of the two States is measured.

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1 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Jamaica: draft articles on item 6.1

Rights of developing geographically disadvantaged States within the economic zone or patrimonial sea

Article 1

The régime applicable to any economic zone or patrimonial sea provided for in article of this Convention shall be subject to the rights of developing geographically disadvantaged States as contained in articles 2, 3, 4 and 5 of this draft.

Article 2

1. In any region where there are geographically disadvantaged States, the nationals of such States shall have the right to exploit the renewable resources within the economic zones or patrimonial seas of the region for the purpose of fostering the development of their fishing industry and satisfying the nutritional needs of such populations.

2. The States of the region shall co-operate to the fullest extent in order to secure the enjoyment of this right.

Article 3

Except as provided in article 4, nothing in articles 1 and 2 shall apply to territories under foreign domination or forming an integral part of metropolitan powers outside the region.

Article 4

In the application of articles 1 and 2 to the Associated States, self-governing territories and territories under foreign domination, the rights thereby conferred shall be so applied as only to confer rights on the inhabitants of such territories for the purpose of their domestic needs.

Article 5

For the purposes of these articles:

1. "geographically disadvantaged States" means developing States which

(a) are land-locked; or

(b) for geographical, biological or ecological reasons:

(i) derive no substantial economic advantage from establishing an economic zone or patrimonial sea; or

(ii) are adversely affected in their economies by the establishment of economic zones or patrimonial seas by other States; or

(iii) have short coastlines and cannot extend uniformly their national jurisdiction.

2. "nationals" include enterprises substantially owned and effectively controlled by nationals.

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1 August 1974

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Second Committee

Turkey: Draft article on item 6

6.7.2 Delineation between adjacent and opposite States

1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the respective economic zones shall be determined by agreement among them in accordance with equitable principles, taking into account all the relevant factors including, inter alia, the geomorphological and geological structure of the sea-bed area involved, and special circumstances such as the general configuration of the respective coasts, and the existence of islands, islets or rocks within the area.

2. The States shall make use of any of the methods envisaged in Article 33 of the Charter of the United Nations, as well as those established under international agreements to which they are parties, or other peaceful means open to them, in case any of the parties refuses to enter into or continue negotiations or in order to resolve differences which may arise during such negotiations.

3. The States may decide to apply any one or a combination of methods and principles appropriate for arriving at an equitable delimitation based on agreement.

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SECOND COMMITTEE

Byelorussian SSR, People's Republic of Bulgaria, German Democratic Republic, Polish People's Republic, Ukrainian SSR, and Union of Soviet Socialist Republics: draft articles on the economic zone

The delegations of the Byelorussian SSR, the People's Republic of Bulgaria, the German Democratic Republic, the Polish People's Republic, the Ukrainian SSR and the Union of Soviet Socialist Republics, noting the understanding reached at the Conference that all questions concernning the law of the sea are interrelated and must be resolved in the form of a "package deal", are prepared to agree to the establishment of an economic zone, as set forth in the present draft articles, on condition that mutually acceptable decisions are also accepted by the Conference on the other basic questions of the law of the sea (12-mile breadth of territorial waters, freedom of passage through international straits, freedom of navigation, freedom of scientific research, determination of the outer limits of the continental shelf, the sea-bed régime and the prevention of pollution of the sea environment).

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SECTION I: GENERAL PROVISIONS

Article 1

The coastal State shall have the right to establish a zone, contiguous to its territorial sea, for the purposes of the preservation, exploration and exploitation of the living and mineral resources therein, to be known as the economic zone.

Article 2

The coastal State shall, within the limits of the economic zone, exercise in accordance with the present Convention sovereign rights over all living and mineral resources in the waters, the sea-bed and the subsoil thereof.

Article 3

The economic zone shall not extend beyond the limit of 200 nautical miles, calculated from the baselines used to measure the breadth of the territorial waters.

Article 4

The rights of the coastal State in the economic zone shall be exercised without prejudice to the rights of all other States, whether having access to the sea or land-locked, as recognized in the provisions of the present Convention and in international law, including the right to freedom of navigation, freedom of overflight, and freedom to lay submarine cables and pipelines.

Article 5

Within the limits of the economic zone each State may freely carry out fundamental scientific research unrelated to the exploration and exploitation of the living or mineral resources of the zone. Scientific research in the economic zone related to the living and mineral resources shall be carried out with the consent of the coastal State.

Article 6

The coastal State shall exercise its rights and obligations in the economic zone in accordance with the provisions of the present Convention, with due regard to the legal aspects of the use of the high seas and bearing in mind the need for a rational exploitation of the natural resources of the sea and the preservation of the sea environment.

Article 7

1. Subject to the provisions of paragraphs 2 and 3 of the present article, the coastal State shall have the sovereign right to engage in, decide on and regulate, within the economic zone, the construction, operation and utilization of non-coastal installations and other facilities, set up for purposes of exploration and exploitation of the natural resources of the economic zone.

/...

2. The coastal State shall ensure compliance with the agreed international standards concerning the breadth of the safety zone around non-coastal installations and other facilities and navigation beyond the limits of the safety zone but close to such non-coastal installations and other facilities.

3. None of the installations and other facilities or safety zones around them mentioned in paragraphs 1 and 2 of the present article may be set up in places where they might be a hindrance to the use of the regular sea routes which are of essential importance to international navigation, or of areas which are of special importance to fishing.

Article 8

In exercising their rights under the present Convention States shall not hinder the exercise of the rights or the fulfilment of the obligations of the coastal State in the economic zone.

Article 9

The coastal State and all other States shall ensure that all activities for the preservation, exploration and exploitation of the living and mineral resources in the economic zone are carried out solely for peaceful purposes.

Article 10

No economic zone must be established by any State which has dominion over or controls a foreign territory in waters contiguous to that territory.

SECTION II: FISHERIES

Article 11

1. In the exercise of its rights over the living marine resources in the economic zone, the coastal State shall, through appropriate regulations, ensure the rational exploitation and the maximum use and preservation of such resources for the purpose of increasing the production of food-stuffs derived from such resources.

2. The coastal State shall co-operate with the appropriate regional and international organizations concerned with fishery matters when exercising its rights over living resources in the economic zone and, taking into account their recommendations, shall maintain the maximum allowable catch of fish and other living resources.

Article 12

On the basis of appropriate scientific data and in accordance with the recommendations of the competent international fishery organizations consisting of

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representatives of interested States in the region concerned and other States engaged in fishing in the region, the coastal State shall determine in the economic zone:

(a) The allowable annual catch of each species of fish or other living marine resources except highly migratory species of fish;

(b) The proportion of the allowable annual catch of each species of fish or other living marine resources that it reserves for its nationals;

(c) That part of the allowable annual catch of fish or other living marine resources that may be taken by other States holding licences to fish in the economic zone in accordance with articles 15 and 16 of this Convention;

(d) Measures to regulate the exploitation of living marine resources;

(e) Measures to conserve and renew living marine resources;

(f) Regulations for monitoring the observance of the measures specified in subparagraphs (d) and (e).

Article 13

Measures for the conservation, exploration and exploitation of living marine resources and for the monitoring of their observance may not discriminate in form or content against the fishermen of any other State.

Article 14

The size of the allowable annual catch, and the measures for the conservation, exploration and exploitation of living marine resources in the economic zone shall be established with due regard to appropriate economic factors and to environmental factors and in accordance with internationally agreed rules.

Article 15

1. If a coastal State does not take 100 per cent of the allowable annual catch of any stocks of fish or other living marine resources in the economic zone, fishermen of other States shall be granted licences to fish for the unused part of such catch.

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2. Permission for foreign fishermen to fish in the economic zone of a developed coastal State shall be granted on an equitable basis and in accordance with the provisions of articles 16, 19 and 20 of this Convention.

3. Foreign fishermen may be allowed to fish in the economic zone of a developing coastal State by the grant of a special licence and in accordance with the provisions of articles 16, 17, 18, 19 and 20 of this Convention.

Article 16

When granting foreign vessels permission to fish in the economic zone and in order to ensure an equitable distribution of living resources, a coastal State shall observe, while respecting the priority of the States specified in articles 18 and 19 of this Convention, the following order:

(a) States which have borne considerable material and other costs of research, discovery, identification and exploitation of living resource stocks, or which have been fishing in the region involved;

(b) Developing countries, land-locked countries, countries with narrow access to the sea or with narrow continental shelves, and countries with very limited living marine resources;

(c) All other States without discrimination.

Article 17

Any questions of payment for the grant of licences to foreign fishermen to fish in the economic zone of a developing coastal State shall be settled in accordance with the provisions of this Convention and the recommendations of the competent international fishery organizations and by agreement between the States concerned.

Payment for fishing permits granted to foreign fishermen in the economic zone of a developing coastal State shall be levied on a reasonable basis and may take various forms.

Article 18

Neighbouring developing coastal States may allow each other's nationals the right to fish in a specified area of their economic zones on the basis of long and mutually recognized use. The conditions for the exercise of this right shall be established by agreement between the States concerned, and such right cannot be transferred to a third party.

Article 19

Developing States which are land-locked or which have a narrow outlet to the sea or a narrow continental shelf shall enjoy the privilege of fishing in the economic zone of a neighbouring coastal State on the basis of equality with the nationals of that State. The conditions governing the enjoyment of this privilege shall be worked out by agreement between the parties concerned.

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Article 20

1. Coastal States in whose rivers anadromous species of fish (salmonidae) spawn shall have sovereign rights over such fish and all other living marine resources within the economic zone and preferential rights outside the zone in the migration area of anadromous fish.

2. Fishing by foreign fisheries for anadromous species may be carried on by an agreement between the coastal State and another interested State establishing regulatory and other conditions governing fishing by foreign nationals.

3. Priority in obtaining the right to fish for anadromous species shall be given to States participating jointly with the coastal States in measures to renew that species of fish, particularly in expenditure for that purpose, and to States which have traditionally fished for anadromous species in the region concerned.

Article 21

In order to enable the fishing fleets of other States whose fishermen have habitually fished in the economic zone established pursuant to article 1 of this Convention to change over to working under the new conditions, a coastal State shall continue to grant the fishermen specified in this article the right to fish in the economic zone for a transition period of not less than three years after the entry into force of this Convention.

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ENGLISH AND SPANISH ONLY

SECOND COMMITTEE

Bulgaria, Byelorussian SSR, German Democratic Republic, Ukrainian SSR and Union of Soviet Socialist Republics: draft articles on the economic zone

Corrigendum

Page 2, article 6

2nd and 3rd lines: For with due regard to the legal aspects of the use of the high seas read with due regard to the other legitimate uses of the high seas

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74-22242

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SECOND COMMITTEE

El Salvador: working paper on item 6 - exclusive economic zone

It is proposed that the elements listed hereunder be inserted for consideration at the appropriate place in the formulations already submitted concerning the characteristics of the exclusive economic zone:

1. Jurisdiction of the coastal State over other economic uses of the waters;

2. Residual competences and rights in favour of the coastal State;

3. The indication that the exclusive economic zone is contiguous to the high seas.

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16 August 1974
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SECOND COMMITTEE

Bolivia and Paraguay: draft articles on the "regional economic zone"

Explanatory note: The delegations of Bolivia and Paraguay have held consultations on a number of questions concerning the law of the sea, in particular the topic of the regional economic zone. They now present the following draft articles for consideration in the debate on that item at the Third United Nations Conference on the Law of the Sea.

The preparation and submission of these draft articles do not, of course, imply the withdrawal or replacement of any proposals already submitted separately or jointly by the sponsoring States. This proposal is intended as an improved and expanded version of previous proposals. The basic philosophy underlying the regional economic zone has already been outlined in the statement made by the representatives of Bolivia and Paraguay on 5 August 1974.

Article 1

Coastal States and neighbouring land-locked States shall have the right to establish jointly regional economic zones between the 12-mile territorial sea and up to a maximum distance of 200 nautical miles, measured from the applicable baselines of the territorial sea.

Article 2

All the States concerned shall participate fully in the regional economic zone and shall be entitled to enjoy the use and benefits of all renewable and non-renewable resources therein, with equal rights and obligations.

Article 3

The States which form part of a regional economic zone shall jointly manage the exploration, exploitation and conservation of the resources of the zone through regional machinery, on the same lines as that proposed for a similar purpose in the sea-bed and ocean floor beyond the limits of national jurisdiction, which shall also ensure an equitable distribution of the resulting benefits.

Article 4

Third States, international, governmental and non-governmental organizations whatever their scope, and natural or legal persons may be allowed to co-operate in the regional economic zones, and financing may be accepted from any source for the operation of the regional machinery.

Article 5

Within the limits of each regional economic zone there shall be regional sovereignty for the exploration, exploitation and conservation of the natural resources, whether renewable or non-renewable, of the sea-bed, the subsoil and the superjacent waters, and jurisdictional powers over the contiguous zone shall be exercised exclusively by the coastal States.

Article 6

On the basis of the equality of rights and obligations of all participating States without discrimination of any kind, the regional economic zone shall protect and preserve, and ensure the protection and preservation of, the marine environment, and may permit joint scientific research to be carried on.

Article 7

The regional economic zone may establish, preferably through the regional machinery, an enterprise as the organ of the authority responsible for carrying out all technical, industrial and commercial activities, including the regulation of production, the marketing and the distribution of raw materials from the regional economic zone resulting from exploration of the zone and exploitation of its natural resources. The enterprise, in the exercise of its functions and powers, which shall be laid down in a convention and its pertinent regulations, shall assume responsibility for the relevant activities, either directly or through operational contracts, joint ventures, joint management or any other type of legal régime which does not conflict with the interests of the zone and the machinery shall ensure effective administrative and financial control in all circumstances.

Article 8

In the exercise of its powers and functions, the enterprise shall act in accordance with the general policy and conditions laid down by the competent regional assembly, and shall submit proposals with regard to its activities and the legal provisions required for such activities to the competent body or council for consideration and authorization.

Article 9

On the same lines as the international zone and the marine and ocean resources beyond national jurisdiction, which are deemed to be the common heritage of mankind - a principle that has already acquired the character of a rule of international law - the regional economic zones and their renewable and non-renewable resources shall be declared the common heritage of the region

Article 10

The regional economic zones may organize themselves on the broadest possible basis and shall also exploit their resources in such a manner as to ensure that they do not adversely affect the national land-based economies of countries dependent on a single commodity which are members of the zone or of other zones.

Article 11

The members of each regional economic zone, whether or not they are coastal States, shall be equitably and fairly represented both in the regional machinery and in the enterprise.

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SECOND COMMITTEE

Ghana, Ivory Coast, Kenya, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Morocco, Senegal, Sierra Leone, Sudan, Swaziland, Tunisia, United Republic of Cameroon and United Republic of Tanzania: draft articles on the exclusive economic zone

Article I

A coastal State has the right to establish beyond its territorial sea an Exclusive Economic Zone which shall not exceed 200 nautical miles from the applicable baselines for measuring the territorial sea.

Article II

(1) In the Exclusive Economic Zone a coastal State shall have sovereignty over the living and non-living resources. It shall have sovereign rights for the purpose of regulation, control, exploration, exploitation, protection and preservation of all living and non-living resources therein.

(2) The resources referred to in (1) of this article, shall encompass the living and non-living resources of the water column, the sea-bed and the subsoil.

(3) Subject to article VI, no other State has the right to explore and exploit the resources therein without the consent or agreement of the coastal State.

Article III

A coastal State shall also have exclusive jurisdiction within the Exclusive Economic Zone, inter alia, for the purposes of:

(a) Control, regulation and preservation of the marine environment including pollution control and abatement;

(b) Control, authorization and regulation of scientific research;

(c) Control and regulation of customs and fiscal matters related to economic activities in the zone.

/...

Article IV

A coastal State shall have the exclusive right to make and enforce regulations relating to, inter alia, the following:

(a) The authorization and regulation of drilling for all purposes,

(b) The construction, emplacement, operation and use of artificial islands and other installations,

(c) Establishment and regulation of safety zones around such off-shore islands and installations,

(d) The licensing of fishing vessels and gear,

(e) Closed fishing seasons,

(f) Types, sizes and amount of gear; and numbers, sizes and types of fishing vessels,

(g) Quota and sizes of fish that may be caught

(h) The conduct of research, disposition of samples and reporting of associated scientific data.

Article V

(1) In the Exclusive Economic Zone all States shall enjoy the freedom of navigation, overflight and laying of submarine cables and pipelines.

(2) In the exercise of freedoms referred to in paragraph 1 of this article, States shall ensure that their activities in the Exclusive Economic Zone are carried out in such a manner as not to interfere with the rights and interests of the coastal State.

Article VI

(1) Developing land-locked and other geographically disadvantaged States have the right to exploit the living resources of the Exclusive Economic Zones of neighbouring States and shall bear the corresponding obligations.

(2) Nationals of land-locked and other geographically disadvantaged States shall enjoy the same rights and bear the same obligations as nationals of coastal States in the exploitation of the living resources of the Exclusive Economic Zone.

(3) Bilateral, subregional or regional arrangements shall be worked out for the purposes of ensuring the enjoyment of the rights and the carrying out of the obligations referred to in paragraphs 1 and 2 of this article in full respect of the sovereignty of the States concerned.

/...

Article VII

States in a region may establish regional or subregional arrangements for the purposes of developing and managing the living resources, promoting scientific research, preventing and controlling pollution, and for the purpose of peaceful settlement of disputes.

Article VIII

(1) The delimitation of the Exclusive Economic Zone between adjacent or opposite States shall be done by agreements between them on the basis of principles of equity, the median line not being the only method of delimitation.

(2) For this purpose, special account shall be taken of geological and geomorphological factors as well as other special circumstances which prevail.

Article IX

Each State shall ensure that any exploration or exploitation activities within its Exclusive Economic Zone is carried out exclusively for peaceful purposes and in such a manner as not to interfere with the legitimate interest of other States in the region or those of the international community.

Article X

No State shall be entitled to construct, maintain, deploy or operate, in the Exclusive Economic Zone of another State, any military installation or device or any other installation or device for whatever purposes without the consent of the coastal State.

Article XI

In respect of a territory whose people have not achieved full independence or some other self-governing status recognized by the United Nations, the rights to the resources of its Exclusive Economic Zone belong to the people of that territory. These rights shall be exercised by such people for their benefits and in accordance with their needs and requirements. Such rights may not be assumed, exercised or benefited from or in any way be infringed upon by a foreign Power administering or occupying or purporting to administer or to occupy such territory.

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26 July 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Greece: draft articles on the continental shelf

5. Continental shelf

5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf

5.2 Outer limit of the continental shelf: applicable criteria

Article 1

The term "continental shelf" comprises the sea-bed and subsoil of the submarine areas adjacent to the coast, continental or insular, but outside the area of the territorial sea, the outer limit of which may be established by the coastal State within the ... metre isobath; in areas where the ... metre isobath is situated at a distance less than ... nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding ... nautical miles.

Article 2

The provisions applicable for the determination of the continental shelf of a State are as a general rule applicable to its islands.

Article 3

In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in article 1.

Article 4

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

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74-20199

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any declaration or proclamation.

Article 5

No State shall by reason of this Convention claim or exercise rights over the continental shelf of another State over which this State had under existing conventional law immediately before the coming into force of this Convention sovereign rights for the purpose of exploring it or exploiting its natural resources.

5.3 Question of the delimitation between States; various aspects involved

Article 6

1. Where the coasts of two or more States are adjacent or opposite to each other, the delimitation of the continental shelf boundaries shall be determined by agreement among themselves.

2. Failing such agreement, no State is entitled to extend its sovereignty over the continental shelf beyond the median line every point of which is equidistant from the nearest points of the baselines, continental or insular, from which the breadth of the continental shelf of each of the two States is measured.

5.4 Natural resources of the continental shelf

Article 7

The natural resources include the mineral and other non-living resources of the sea-bed and subsoil together with living vegetable organisms and animals belonging to sedentary species.

Article 8

A coastal State may enact all necessary laws and regulations for the effective management of its continental shelf.

5.5 Régime for water superjacent to the continental shelf

Article 9

The rights of the coastal State over the continental shelf do not affect the legal régime of the superjacent waters or air space.

Article 10

The normal navigation and overflight on and in the air space above the superjacent waters of the continental shelf by ships and aircraft of all States shall not be prejudiced.

/...

5.6 Scientific research

Article 11

It is for the coastal State to authorize scientific research activities on the continental shelf; it is entitled to participate in them and to be informed of the results thereof. In such regulations as the coastal State may issue on the matter, the desirability of promoting and facilitating such activities shall be taken especially into account.

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6 August 1974
ENGLISH
ORIGINAL: SPANISH

Second Committee

MEXICO: DRAFT ARTICLE ON ITEM 5: CONTINENTAL SHELF

Article ....

No State shall construct or erect military installations or appliances on the continental shelf of another State without its consent.

UNITED NATIONS

THIRD CONFERENCE
ON THE LAW OF THE SEA

A/CONF.62/C.2/L.40
5 August 1974
ENGLISH
ORIGINAL: FRENCH

SECOND COMMITTEE

Belgium, Denmark, Federal Republic of Germany, France, Ireland, Italy, Luxembourg, Netherlands

DRAFT ARTICLES ON FISHERIES

This proposal for a new fisheries régime is intended merely as a basis for discussion. It is not complete and does not necessarily reflect the final views of the delegations submitting it.

These draft articles would be incorporated into an over-all treaty on the law of the sea.

Article 1

1. Subject to the articles set forth below, all States shall have the right to allow their nationals to engage in the exploitation of the fishery resources of the sea.

2. Such exploitation shall be regulated for the benefit of nationals of all States in such a way as to ensure the rational exploitation and conservation of the fishery resources of the sea in the interest of mankind as a whole.

3. For these purposes:

(a) In the zone referred to in article 5, coastal States shall enjoy the fishing rights defined in these articles;

(b) All States shall maintain close co-operation at both the world and the regional levels in accordance with the following articles.

PART I: PRINCIPLES OF RATIONAL EXPLOITATION AND CONSERVATION

Article 2

1. Measures necessary for maintaining, re-establishing or attaining the maximum yield from fishing shall be adopted by States and organizations. These measures shall be based on scientific data and take into account technical and economic considerations. They shall be adopted, subject to these articles, in the light of the regional situation and without discrimination as to form or substance.

2. The measures referred to in paragraph 1 shall be formulated having regard to the need to secure a supply of food for human consumption.

Article 3

The measures referred to in article 2 may include:

(a) fixing the total allowable catch and its possible allocation;

(b) regulation of fishing activity;

(c) the establishment of closed seasons;

(d) a temporary ban on fishing in certain areas of the sea;

(e) any technical measures (relating, for example, to fishing gear, mesh sizes, fishing methods, minimum sizes of fish caught, etc.).

PART II: RIGHTS AND OBLIGATIONS OF COASTAL STATES

Article 4

In a zone beyond its territorial sea,* hereinafter called "the zone", the coastal State may exercise the rights and powers set forth in these articles.

Article 5

1. The zone shall not extend beyond (x) nautical miles measured from the baseline of the territorial sea.

2. The extent of the zone shall be determined by the coastal State, within the limit referred to in paragraph 1, taking into account all relevant factors, in particular the geographical characteristics of the area and the fishery resources and their distribution off its coasts.

Article 6**

Where the coasts of two States are opposite or adjacent to each other, the delimitation of their respective zones within the limit specified in article 5 shall, failing agreement between them, be established in accordance with the provisions of article ...

Article 7

1. When in the interests of conserving any species it is necessary for the coastal State to fix a total allowable catch within its zone, it shall determine the total allowable catch so as to ensure the maintenance of the maximum sustainable yield.

2. The coastal State shall submit the figures determined pursuant to paragraph 1 to the appropriate regional or sectoral organizations. Those organizations may, on the basis of all relevant scientific data, recommend other figures.

3. Two or more coastal States may by mutual agreement decide to request a regional or sectoral fishing organization of their choice to determine the figures provided for in paragraph 1 for all stocks exploited jointly.

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* The breadth of the territorial sea (maximum 12 miles) will be dealt with elsewhere, in the provisions relating to the territorial sea.

** As this article concerns a problem that is not peculiar to fisheries, it should contain a reference to a more general provision in the Convention.

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Article 8

1. Within the framework of the above-mentioned aims of rational exploitation and conservation of fishery resources and taking account of the maximum allowable catch determined by the coastal State pursuant to article 7, as well as any recommendations made by appropriate organizations also pursuant to that article, the coastal State may reserve in its zone that part of the allowable catches of one or more species which vessels flying its flag are able to take.

2. When exercising its right under paragraph 1, the coastal State shall duly take into account the right of access of other States and particularly of:

(a) States which have habitually fished in the zone;

(b) Developing States of the same region, provided such States have not invoked paragraph 1 above to reserve for vessels flying their flag all the fish they can catch in their own zone;

(c) States whose economies are to a very large extent dependent on fishing, where such States have not satisfied their needs by invoking the provisions of this article;

(d) States of the same region with limited fishery resources whose economy is especially dependent on fishing;

(e) Land-locked States.

3. In implementing this article, allowance shall be made for cases where the coastal State adopting the measures referred to in paragraph 1 is a developing country or a country whose economy is to a very large extent dependent on fishing.

A coastal State may claim the same right with respect to those parts of its territory in which the population is especially dependent on fishing for its livelihood and lacks alternative opportunities for permanent employment.

Article 9

1. A coastal State wishing to avail itself of article 8 shall, in accordance with article 13, notify the competent organization of the proposals concerning the rights to one or more species in its zone which it wishes to have reserved to vessels flying its flag and those to be granted to other States.

2. The organization shall immediately hold consultations on these proposals.

3. Failing agreement within four months of notification, the coastal State may determine, at a level equal to or lower than the proposed level, the rights it will reserve to vessels flying its flag.

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4. Any State which considers that such decision taken by the coastal State is in violation of the rights accruing to it under article 8 may, within two months, have recourse to the procedure for settlement of disputes provided for in article 20.

5. Pending the decision of the Special Committee, the decision taken by the coastal State shall remain provisionally valid. However, the State which has referred the matter to the Special Committee, pursuant to paragraph 4 above, may in addition request the latter to prescribe certain provisional measures. The Committee shall rule thereon within six weeks.

6. Every year, the decisions taken by the coastal State and the Special Committee and the agreement of the States concerned, as provided for in the preceding paragraphs, may be reviewed by the organization at the request of any of the interested parties. The provisions of paragraphs 2 to 5 shall apply to such review.

Article 10

In accordance with the principles of rational exploitation and conservation, the regulatory measures referred to in articles 2 and 3 shall be taken by the coastal State in its zone.

Article 11

Vessels fishing in a zone subject to regulation under the conditions provided for in article 10 shall respect the relevant regulations adopted by the coastal State.

The States whose flags are flown by such vessels shall take the necessary steps to ensure that these regulations are respected.

Article 12

1. The coastal State may stop, board and inspect fishing vessels within its zone, if it has valid reason to suspect that they have committed a breach of the fishery regulations as provided for in these articles.

2. The coastal State may also prosecute and punish offences committed by such vessels unless the flag State has established a procedure permitting the prosecution and punishment of breaches of the fishery regulations of the coastal State adopted in conformity with these articles.

In that case, the coastal State shall send a report attesting the breach of regulations to the flag State and shall furnish the flag State with any particulars constituting evidence that such breach has been committed. Within a period of six months from the receipt of the report attesting that breach, the flag State shall make known to the coastal State whether or not it has brought the matter before its judicial authorities so that proceedings may be instituted.

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Should the flag State not bring the matter before its judicial authorities, or should it fail to reply, the coastal State shall have the right to refer the matter to its own courts.

If the flag State has decided to bring the matter before its judicial authorities, it shall inform the coastal State of the outcome of the proceedings.

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PART III: REGIONAL OR SECTORAL FISHERY ORGANIZATIONS

Article 13

1. Fishery organizations, hereinafter called "organizations" shall exercise the functions laid down in these articles. These organizations shall be responsible either for a region or for a given species.

States whose vessels fish or are concerned with and equipped for fishing within a region shall establish a regional organization if one does not already exist. Coastal States of the region, as well as any State whose vessels fish or are concerned with and equipped for fishing in this region, shall be members of this organization.

States whose vessels fish or are concerned with and equipped for fishing for certain species such as tuna and whales shall establish a sectoral organization. This organization shall be established on a regional or world-wide basis if a competent sectoral or regional organization does not already exist. Coastal States in whose zone this activity is exercised, as well as any State whose vessels fish or are concerned with and equipped for fishing for the species in question, shall be members of this organization.

2. The constitutions or rules of procedure of these organizations shall ensure their most effective operation. In particular, they shall provide that the measures referred to in article 14 are as a general rule adopted by a majority greater than a simple majority, but not necessarily unanimously, and that they are binding upon the States members of the organization.

3. Where an appropriate regional or sectoral organization has not yet been established, the coastal State concerned shall consult with other interested States if it is unable to take the action provided for under articles 7 and 9 with respect to such an organization. The decisions taken by the coastal State after such consultations shall be reviewed each year pending the establishment of the organization.

Article 14

1. The organization shall determine the procedures for applying the principles of rational exploitation and conservation as well as the basic principles of the measures to be adopted for this purpose.

2. Within the limits of their competence, they shall exercise the power to adopt the regulatory measures referred to in articles 2 and 3 in any part of a region beyond the zone in which a coastal State exercises such powers in accordance with article 10.

3. The organizations shall co-ordinate the scientific research programmes of member States in order to ensure the supply of appropriate scientific information.

Article 15

Vessels fishing in the area of competence of an organization are bound to comply with the measures adopted by such organizations.

Flag States parties to this Convention shall take the necessary steps to ensure such compliance.

Article 16

The organization shall supervise the execution of its decisions.

Supervision shall be based, inter alia, on the examination of statistics which States members of the organization are required to compile and make available, and of all other data obtained from them.

Article 17

1. Within the framework of an organization, its member States may decide, at the request of a coastal State, to establish in the zone of that State international fishery monitoring machinery for the purpose of reporting breaches of the regulations adopted by that State in accordance with article 10.

To this end, member States may appoint officers authorized to investigate breaches of the regulations of that State.

2. The provisions of article 12, paragraph 2, shall be applicable to breaches so established. The organization shall inform the coastal State and the flag State of the findings of any inquiries it has made. The organization shall be kept informed of the outcome of legal proceedings.

Article 18

In all parts of a region situated outside the zones in which the regulatory powers referred to in article 10 are exercised, the powers of control and prosecution shall be exercised by the flag State unless the members of the organization agree upon an international fishery monitoring régime similar to that referred to in article 17.

PART IV: INTERNATIONAL FISHERIES AUTHORITY

Article 19

The activities of the organizations may be supplemented, as necessary, by those of an international fisheries authority, either existing or to be set up,* the function of which could be:

(a) to promote the establishment of new organizations and, where a competent organization does not exist, to exercise the powers which would normally devolve upon such organizations;

(b) to encourage all types of technical assistance in respect of fisheries.

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* The authority referred to in this article might be FAO.

PART V: SETTLEMENT OF DISPUTES

Article 20

1. Any dispute which may arise in the cases referred to in these articles shall, at the request of any of the parties, be submitted for settlement to a special committee of five members, unless the parties to the dispute agree to seek a solution by other peaceful means, in accordance with Article 33 of the Charter of the United Nations.

2. The members of the special committee, one of whom shall act as chairman, shall be appointed by mutual agreement between the parties to the dispute within three months of the request for settlement in accordance with the provisions of this article. Failing agreement they shall, upon the request of any party to the dispute, be appointed by the Secretary-General of the United Nations, within a further three-month period, in consultation with the parties to the dispute and with the appropriate United Nations authorities, from among duly qualified persons not parties to the dispute and specializing in the legal, administrative or scientific aspects of fisheries, depending upon the nature of the dispute to be settled. Vacancies shall be filled in the same manner as the initial appointments were made.

3. Every State party to proceedings under these articles shall have the right to designate one person of its choice who shall have the right to participate fully in the proceedings of the special committee on the same footing as its members but without the right to vote or to take part in the drafting of the committee's decision.

4. The special committee shall so organize its own procedures as to ensure that each party has the opportunity to be heard and to present its case. It shall also decide how the costs and expenses are to be apportioned between the parties to the dispute, failing agreement by the parties on this matter

5. The special committee shall give its decision within five months of the date of appointment of its members, unless it decides that it is necessary to extend the time-limit for a further period which shall not exceed three months.

6. In reaching its decisions, the special committee shall comply with these articles and with the rules of general international law and any special agreements reached between the parties to the dispute with a view to settling the dispute.

7. The decisions of the special committee shall be adopted by a majority vote.

Article 21

The decisions of the special committee shall be binding on the parties concerned.

The greatest possible consideration shall be paid to any recommendations accompanying these decisions.

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Article 22

If the factual basis of the award of the special committee is altered owing to substantial changes in the stock or stocks of fish or other living marine resources or in methods of fishing, any of the parties concerned may request the organization to make the necessary changes in the measures of conservation.

If a decision cannot be obtained within a reasonable time, any of the parties concerned may again resort to the procedure specified in article 20, provided that at least two years have elapsed since the original award.

PART VI: RELATIONS WITH OTHER TREATIES

Article 23

1. The provisions of these articles

- shall not prejudice the maintenance of any existing special fisheries régime existing among States members of a customs union;

- shall not preclude the establishment of a special fisheries régime among the States fishing for a particular region for that region or among States members of a customs union.

2. Where such a special régime exists, vessels of participating States fishing in the zone of another participating State shall be treated on the same footing as vessels of the latter for the purpose of article 8, paragraph 1.

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SECOND COMMITTEE

United States of America: draft article for a chapter on the high seas

Living resources

1. States shall co-operate with each other in the exploitation and conservation of living resources in areas beyond the economic zone of coastal States. States exploiting identical resources, or different resources located in the same area, shall enter into fisheries management agreements, and establish appropriate multilateral fisheries organizations, for the purpose of maintaining these resources. If such a body cannot be constituted among the concerned States, they may ask for the assistance of the Food and Agriculture Organization of the United Nations in establishing an appropriate regional or international regulatory body.

2. States, acting individually and through regional and international fisheries organizations, have the duty to apply the following conservation measures for such living resources:

(A) allowable catch and other conservation measures shall be established which are designed, on the best evidence available to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global and regional minimum standards;

(B) such measures shall take into account effects on species associated with or dependent upon harvested species and at a minimum, shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction;

(C) for this purpose, scientific information, catch and fishing effort statistics, and other relevant data shall be contributed and exchanged on a regular basis;

(D) conservation measures and their implementation shall not discriminate in form or fact against any fisherman. Conservation measures shall remain in force pending the settlement, in accordance with the provisions of chapter ____, of any disagreement as to their validity.

3. With respect to anadromous species and highly migratory species, the provisions of article ___ and article ___, respectively, shall apply.

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Australia and New Zealand: draft article on highly migratory species

Highly migratory species, defined in the annex, 1/ shall be regulated in accordance with the provisions of article in the same manner as other species of fish found or taken in the economic zone, except that in recognition of the greater likelihood that more States will be required in the case of highly migratory species to co-operate in the conservation, management and control of such species as well as in the rational utilization of such species, the following additional provisions shall apply:

1. Any coastal State in whose economic zone or other waters 2/ highly migratory species are found or taken and any State whose vessels take such species may request the opinion of the Director-General of FAO as to whether proper management of such species requires the setting up of an appropriate international or regional organization. The Director-General of FAO shall respond within 90 days of any such request, rendering his opinion, and if such opinion is positive, designating the members of the organization. In addition the Director-General may recommend the institutional arrangements for the organization. All designated States shall have the obligation to take all action necessary to establish the organization within the shortest possible time.

2. All States shall co-operate fully with an appropriate international or regional organization (being either an organization which exists on the date of entry into force of this article or an organization set up pursuant to this article) established and empowered to issue regulations to conserve and manage the species concerned, including the allocation of national quotas.

3. In the absence of agreement to the contrary decisions of the organizations shall require an affirmative vote of two thirds of its members.

1/ A flexible procedure for the amendment of such a technical annex will be required.

2/ In this article the term "other waters" includes archipelagic, territorial, and internal waters. In these areas the coastal State shall apply regulations dealing with conservation measures.

4. The organization in formulating regulations shall take into account the following criteria:

A. The coastal State's right in priority to other States to harvest the regulated species within its economic zone to the extent of its harvesting capacity subject only to conservation measures issued by the organization in order to maintain or restore the regulated species.

B. The rational utilization of such species within its maximum sustainable yield, based on the best available scientific evidence.

C. Traditional harvesting patterns both in the region and in the economic zone, taking into account the desirability of avoiding to the maximum extent possible severe economic dislocations in any State as a result of the application of this article.

D. The criteria applicable to other than highly migratory species, as set out in article

5. A. The organization shall fix a uniform fee for fish caught whether inside or outside an economic zone, provided that a coastal State shall be exempt from such fee in respect of fish caught by its vessels in its economic zone or other waters.

B. The uniform fee shall be fixed at a reasonable level, with a view to providing for:

(1) The organization's administrative expenses.

(2) Effective contribution to management and development programmes for the species concerned.

(3) Enforcement.

(4) Scientific research.

C. The coastal State shall receive the uniform fee paid in respect of fish caught by foreign vessels within its economic zone.

D. The organization shall establish rules for the collection and payment of the uniform fee, and shall make appropriate arrangements with the coastal State regarding the establishment and application of such rules.

E. The organization may require a member to make a minimum contribution to its budget, taking into account fees received by the organization in respect of fishing by the member's nationals.

6. Each State shall give effect to the regulations issued by the organization:

A. Within its economic zone or other waters it shall apply those regulations to all persons and vessels.

B. Outside its economic zone it shall apply those regulations to vessels flying its flag.

/Further provisions dealing with enforcement outside the economic zone will be required./

8. A State shall have the right to submit to the Disputes Tribunal any dispute relating to a regulation by either another State or by the organization. The Disputes Tribunal shall have jurisdiction to decide the matter and to modify or set aside any regulation from whatever source respecting the regulated species, including a regulation respecting fees, which it may find to be contrary to the provisions or principles of this article.

9. A. In disputes involving scientific and technical matters the Disputes Tribunal shall request the opinion of experts from FAO and from any other appropriate source.

B. The Disputes Tribunal shall have due regard to the desirability of avoiding a multiplicity of régimes or regulations within a single region of migration of a particular highly migratory species and to the interests both of coastal States and of distant water fishing States in the species.

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A/CONF.62/C.2/L.37
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Denmark: draft article on anadromous species

The exploitation of anadromous species shall be regulated by agreement among interested States or by international arrangements through the appropriate intergovernmental fisheries organization.

All interested States shall have an equal right to participate in such arrangements and organizations. Any arrangement shall take into account the interest of the State of origin and the interests of other coastal States.

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SECOND COMMITTEE

Ireland: draft article on anadromous species

(under items 6.6; 6.6.3; 7; 8.4)

The right of exploitation of stocks of anadromous species shall be exercised only:

(i) within waters under the jurisdiction of the State of origin,

(ii) within waters under the jurisdiction of other coastal States, subject to such conditions and regulations as shall be agreed between such coastal State and the State of origin, taking into account the special role of the State of origin in the conservation of the species.

Explanatory Note

Anadromous fish such as salmon, are completely dependent on fresh water rivers for their existence. Only in rivers that are unpolluted and in which suitable stretches of gravel and water flow conditions exist can the spawning and hatching-out take place. The tiny fish after hatching-out may spend up to as many as four years in the river systems before migrating to the sea. These fish when fully grown in the sea have an irresistible urge to return to the rivers in which they themselves were spawned and wherein the cycle is repeated. If, then, the stock is to survive, positive steps must be taken to ensure that works carried out on the rivers, for irrigation, power development or other purposes, do not impede the migration of the parent fish upstream or that of the young fish downstream, and that the river water remains unpolluted. This, in the majority of cases, entails stringent restrictions on other uses of the waters and the expenditure of large sums of money by the State and by industry, as well as a sacrifice in refraining from using the available water supply otherwise. If the sustainable yield of the stocks of salmon is to be maintained at the optimum level, captures on the high seas and within the coastal waters of States other than the State of origin should at the least be severely restricted, otherwise a State of origin cannot be expected to spend money and make sacrifices to ensure the survival of the species. Recognition of an economic zone wherein coastal States would have extensive jurisdiction over the living resources within the zone, including anadromous fish moving through the zone, intensifies the problem for the States of origin of anadromous species. Accordingly it is submitted that if a convention extends the fisheries jurisdiction of the coastal State, it should at the same time oblige such coastal States to enter into arrangements with the State of origin of anadromous fish which will ensure their conservation and accord due recognition of the expense and sacrifices which must be made by the State of origin to this end.

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SECOND COMMITTEE

Japan: draft article on anadromous species

1. The conservation and management of anadromous species shall be regulated through arrangements among the States participating in the exploitation of such species and, where appropriate, through regional intergovernmental organizations established for this purpose.

2. The special interest of the coastal State, in whose fresh or estuarine waters anadromous species spawn, shall be taken into account in the arrangements for regulating such species.

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SECOND COMMITTEE

WORKING PAPER SUBMITTED BY THE DELEGATION OF CANADA

The special case of salmon - the most important anadromous species

This paper summarizes the unique position of the various species of salmon in the world of fisheries management. It is submitted to provide the basis in fact and in equity for the development of an appropriate régime for the best use of this valuable resource.

Salmon are unique in returning from the sea to the same fresh waters where they were born, to spawn and leave their fertilized eggs to develop in the same gravel beds. Following hatching, some salmon migrate directly to the sea as small fry; other species [illegible] to several years in fresh water lakes or streams.

While salmon grow and mature in the open sea, they occupy the upper layers of cold northern waters where they are not serious competitors for the food supply of other valuable species. In the open sea they are found mainly in areas within the proposed 200-mile economic zones, but also, to a considerable degree, in areas beyond national jurisdiction.

Salmon are the only fish occurring in the open sea which man can and does increase by positive cultural measures. Such measures can be taken only by the State of origin.

Mixed in distant waters, salmon runs separate to return unerringly to their home streams. In distant waters salmon runs which need special protection are mixed with runs which are abundant; only as they approach their home streams (the very streams where they were bred) can the salmon runs be cropped separately and in accordance with the catches each run can support.

Salmon reach their greatest weight as they approach their home streams. During their migrations from the open sea to the spawning grounds, salmon grow faster than they die off. The greatest yield can be obtained by fishing the runs close to their home streams.

Strict regulations are needed to let the right number of spawners through the fishery to the spawning streams. This must be done by assessments of the runs as they appear, and prompt and often drastic restriction of fishing to let the optimum spawning run through. This requires costly supervision and enforcement, as well as co-operation of the fishermen. Only the State of origin of the salmon can carry out this essential function.

Salmon must have unobstructed access to their spawning grounds, which may be as much as 1,500 miles inland from the sea. This involves heavy direct expenses in removal of natural obstructions (e.g. landslides) and construction of fish passes. There is also much indirect cost to the State of origin in foregoing hydro-electric development, irrigation projects, flood control and other benefits, all of which would involve dams obstructing the passage of salmon. For example, power dams of great potential value have been kept off the Fraser River in British Columbia in order to maintain the productivity of one of the world's great salmon rivers. The State of origin must also protect salmon waters from pollution.

Artificial means of increasing salmon production are becoming ever more effective. Large scale projects to increase salmon production include provision of artificial channels where natural spawning grounds are inadequate, hatcheries to increase the numbers and proportions of fry produced from salmon eggs, and associated facilities for rearing small salmon safe from the enemies and fluctuations in water levels which threaten them in nature. These salmon culture techniques have, in recent years, passed the experimental stage to that of demonstrated effectiveness. In North America alone, hundreds of millions of dollars will be spent in such efforts.

Both the management of the fishery and the development of artificial means of producing more salmon have required and continue to require intensive scientific research. The States of origin of salmon have already spent hundreds of millions of dollars in research on salmon.

Only the State of origin can protect and culture salmon and effectively manage the fishery. All the steps noted above can be carried out only by the State in whose rivers the salmon breed - the State of origin. No other State can see that the right number of salmon get through the fishery to spawn. No other State can keep salmon rivers and lakes unobstructed and unpolluted. No other State can take positive measures to increase salmon production by artificial means such as man-made spawing channels, hatcheries and rearing facilities. Without these effective and costly actions by the State of origin, there would be no commercial salmon runs.

A régime must be found which assures for the State of origin the fruits of its efforts and so encourages it to continue to bear the costs. This requires curtailment of the fishing of salmon on the open sea outside national jurisdictions and co-operation with the State of origin by other States through whose zones the salmon may migrate.

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Fiji, Indonesia, Mauritius and Philippines: draft articles relating to archipelagic States

These draft articles are largely based on proposals contained in documents A/AC.138/SC.II/L.15 1/ and A/AC.138/SC.II/L.48 2/ submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021, vol. V, item 16, p. 1).

2/ Ibid., (A/9021, vol. III, pp. 102-105).

Article 1

1. These articles apply only to archipelagic States.

2. An archipelagic State is a State constituted wholly by one or more archipelagos and may include other islands.

3. For the purpose of these articles an archipelago is a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 2

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.

2. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

3. Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

4. The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State as determined under article _____ of chapter _____ of this Convention.

5. If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighbouring State for direct communication, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, the continued right of such communication shall be recognized and guaranteed by the archipelagic State.

6. An archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

Article 3

1. The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to, and are subject to the sovereignty of, the archipelagic State to which they appertain.

2. The sovereignty and rights of an archipelagic State extend to the air space over its archipelagic waters as well as to the water column and the sea-bed and subsoil thereof, and to all of the resources contained therein.

Article 4

Subject to the provisions of article 5, ships of all States /whether coastal or not/ shall enjoy the right of innocent passage through archipelagic waters.

Article 5

1. An archipelagic State may designate sealanes suitable for the safe and expeditious passage of foreign ships through its archipelagic waters, and may restrict the passage of such ships, or any types or classes of such ships, through those waters to any such sealanes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

3. An archipelagic State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes for the passage of such ships through those sealanes.

4. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article an archipelagic State shall, inter alia, take into account:

(a) the recommendations or technical advice of competent international organizations;

(b) any channels customarily used for international navigation;

(c) the special characteristics of particular channels; and

(d) the special characteristics of particular ships.

5. An archipelagic State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

6. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international law, relating to passage through its archipelagic waters, or the sealanes designated under the provisions of this article, which laws and regulations may be in respect of all or any of the following:

(a) the safety of navigation and the regulation of marine traffic;

(b) the installation, utilization and protection of navigational aids and facilities;

/...

(c) the installation, utilization and protection of facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the archipelagic waters;

(d) the protection of submarine or aerial cables and pipelines;

(e) the conservation of the living resources of the sea;

(f) the preservation of the environment of the archipelagic State, and the prevention of pollution thereto;

(g) research in the marine environment, and hydrographic surveys;

(h) the prevention of infringement of the fisheries regulations of the archipelagic State, including inter alia those relating to the stowage of gear;

(i) the prevention of infringement of the customs, fiscal, immigration, quarantine, sanitary and phytosanitary regulations of the archipelagic State; and

(j) the preservation of the peace, good order and security of the archipelagic State.

7. The archipelagic State shall give due publicity to all laws and regulations made by it under the provisions of this article.

8. Foreign ships exercising the right of innocent passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with all laws and regulations made by the archipelagic State under the provisions of this article.

9. If any foreign warship does not comply with the laws and regulations of the archipelagic State concerning its passage through the archipelagic waters or the sealanes designated under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such safe and expeditious route as may be designated by the archipelagic State.

10. Subject to the provisions of paragraph 9 of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sealanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto and substituting other sealanes for those through which innocent passage has been suspended.

/The foregoing provisions relating to archipelagic States are without prejudice to the régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast./

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

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12 August 1974
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SECOND COMMITTEE

People's Republic of Bulgaria, German Democratic Republic and Polish People's Republic: amendments to draft articles on archipelagic States contained in document A/CONF.62/C.2/L.49

On pages 2, 3, 4 and 5 change the texts of articles 1 and 4 and of article 5, paragraphs 8, 9 and 10 as follows:

Article 1

1. These articles apply only to archipelagic States.

2. An archipelagic State is a State consisting wholly of one or several archipelagos forming a geographical, historical, political and economic entity.

3. All waters within the archipelagic State shall be under its sovereignty and shall be designated as archipelagic waters.

4. The sovereignty of the archipelagic State shall also extend to the airspace over the archipelagic waters and to the surface and subsoil of the sea-bed of such waters. All resources of the archipelagic waters shall be under the sovereignty of the archipelagic State.

5. The archipelagic State shall exercise that sovereignty in accordance with the provisions of the present articles and other rules of international law.

Article 4

All ships shall enjoy equal freedom of passage in archipelagic straits, the approaches thereto, and those areas in the archipelagic waters of the archipelagic State along which normally lie the shortest sea lanes used for international navigation between one part and another part of the high seas.

Article 5

8. Foreign ships exercising the right of free passage through the archipelagic waters or the sea lanes designated under the provisions of this article shall comply with the relevant laws and regulations made by the archipelagic State under the provisions of this article.

C-1153
74-22207

/...

9. All ships passing through the straits and waters of archipelagic States shall not in any way endanger the security of such States, their territorial integrity or political independence. Warships passing through such straits and waters may not engage in any exercises or gunfire, use any form of weapon, launch or take on aircraft, carry out hydrographic surveys or engage in any similar activity unrelated to their passage. All ships shall inform the archipelagic State of any damage, unforeseen stoppage, or of any action rendered necessary by force majeure.

10. An archipelagic State may not interrupt or suspend the transit of ships through its straits or archipelagic waters, or take any action which may impede their passage.

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A/CONF.62/C.2/L.51
12 August 1974
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ORIGINAL: SPANISH

SECOND COMMITTEE

Ecuador: proposal on item 16: archipelagos

Article .... The method applied to archipelagic States for the drawing of baselines shall also apply to archipelagos that form part of a State, without entailing any change in the natural régime of the waters of such archipelagos or of their territorial sea.

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THIRD CONFERENCE ON THE LAW OF THE SEA

Distr.
[illegible]

A/CONF.62/C.2/L.63
15 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Thailand: draft articles on item 16

Archipelagoes

Article ...

In any situation where the archipelagic waters, or territorial waters measured therefrom, of an archipelagic State include areas which previously had been considered as high seas, that archipelagic State, in the exercise of its sovereignty over such areas, shall give special consideration to the interests and needs of its neighbouring States with regard to the exploitation of living resources in these areas, and, to this effect, shall enter into an agreement with any neighbouring State, at the request of the latter, either by regional or bilateral arrangements, with a view to prescribing modalities entitling the nationals of such neighbouring State to engage and take part on an equal footing with its nationals and, where geographical circumstances so permit, on the basis of reciprocity, in the exploitation of living resources therein.

Article ...

In addition to the right of passage through the sealanes designated for international navigation, an archipelagic State shall recognize, for the sole benefit of such of its neighbouring States as are enclosed or partly enclosed by its archipelagic waters, a right of innocent passage through these waters for the purpose of gaining access to and from any part of the high seas by the shortest and most convenient routes.

To this effect, an archipelagic State shall enter into arrangements with any such neighbouring States at the request of the latter.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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LIMITED

A/CONF.62/C.2/L.70
20 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Bahamas: draft articles on archipelagic States

Item 16

Article 1

1. An archipelagic State is a State constituted wholly or mainly of one or more archipelagos.

2. For the purpose of these articles, an archipelago is a group of islands, including parts of islands, and other natural features which are so closely interrelated that the component islands and other natural features form an intrinsic geographical, economic and political entity or which historically have been regarded as such.

Article 2

1. In drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured, an archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs or low-tide elevations of the archipelago or may employ as a baseline any non-navigable continuous reefs or shoals lying between such points.

2. If the drawing of such baselines encloses a part of the sea traditionally used by an immediate and adjacent neighbouring State for direct communication from one part of its territory to another part, such communication shall continue to be respected.

Article 3

1. The waters enclosed by the baselines, hereinafter referred to as archipelagic waters, regardless of their depth or distance from the coast, belong to and are subject to the sovereignty of the archipelagic State to which they appertain.

2. The sovereignty and rights of the archipelagic State extend to the air space over its archipelagic waters, as well as to the water column, the sea-bed and subsoil thereof, and to all the resources contained therein.

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A/CONF.62/C.2/L.56
13 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Turkey: draft article on item 17. Enclosed and semi-enclosed seas

Article ...

The general rules set out in chapters ... (chapters relating to territorial sea and economic zone) of this Convention shall be applied, in enclosed and semi-enclosed seas, in a manner consistent with equity.

States bordering enclosed and semi-enclosed seas may hold consultations among themselves with a view to determining the manner and method of application, appropriate for their region, for the purposes of this article.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.30
30 July 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Fiji, New Zealand, Tonga and Western Samoa: draft articles on islands and on territories under foreign domination or control

A. ISLANDS

1. An island is a naturally-formed area of land, surrounded by water, which is above water at high tide.

2. Subject to paragraph 5 of this article, the territorial sea of an island is measured in accordance with the provisions of this Convention applicable to other land territory.

3. The economic zone of an island and its continental shelf are determined in accordance with the provisions of this Convention applicable to other land territory.

4. The foregoing provisions have application to all islands, including those comprised in an island State.

5. In the case of atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea shall be the seaward edge of the reef, as shown on official charts.

[These provisions are intended to be without prejudice to the question of the delimitation of island ocean space as between adjacent or opposite States, or in other special circumstances. Nor do they purport to deal with the régime of islands applicable to an archipelagic State or to the off-lying archipelago of a coastal State, or the case of a fringe of islands along a coast in its immediate vicinity referred to in article 4 (1) of the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone.]

B. TERRITORIES UNDER FOREIGN DOMINATION OR CONTROL

In respect of a territory whose people have attained neither full independence nor some other self-governing status following an act of self-determination under the auspices of the United Nations, the rights to the resources of the economic zone created in respect of that territory and to the resources of its continental shelf are vested in the inhabitants of that territory to be exercised by them for their benefit and in accordance with their needs and requirements. Such rights may not be assumed, exercised or profited from or in any way infringed by a metropolitan or foreign power administering or occupying that territory.

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UNITED NATIONS

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LIMITED

A/CONF.62/C.2/L.30
9 August 1974

ORIGINAL: ENGLISH

Greece: draft articles on the régime of islands

Item 19: Régime of islands: (b) other related matters

Article 1

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. An island forms an integral part of the territory of the State to which it belongs.

3. The foregoing provisions have application to all islands, including those comprised in an island State.

Article 2

1. The sovereignty and jurisdiction of a State extends to the maritime zones of its islands determined and delimited in accordance with the provisions of this Convention applicable to its land territory.

2. The sovereignty over the island extends to its territorial sea, to the air space over the island and its territorial sea, to its sea-bed and the subsoil thereof and to the continental shelf for the purpose of exploring it and exploiting its natural resources.

3. The island has a continuous zone and an economic zone on the same basis as the continental territory, in accordance with the provisions of this Convention.

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74-21942

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A/CONF.62/C.2/L.55
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ORIGINAL: ENGLISH

SECOND COMMITTEE

Turkey: draft article on item 19. Régime of islands

Article 1

(Definitions)

Article 2

Except where otherwise provided in this chapter, the marine spaces of islands are determined in accordance with the provisions of this Convention.

Article 3

1. No economic zone shall be established by any State which has dominion over or controls a foreign island in waters contiguous to that island.

The inhabitants of such islands shall be entitled to create their economic zone at any time prior to or after attaining independence or self-rule. The right to the resources of such economic zone and to the resources of its continental shelf are vested in the inhabitants of that island to be exercised by them for their benefit and in accordance with their needs or requirements.

In case the inhabitants of such islands do not create an economic zone, the Authority shall be entitled to explore and exploit such areas, bearing in mind the interests of the inhabitants.

2. An island situated in the economic zone or on the continental shelf of other States shall have no economic zone or continental shelf of its own if it does not contain at least one tenth of the land area and population of the State to which it belongs.

3. Islands without economic life and situated outside the territorial sea of a State shall have no marine space of their own.

4, Rocks and low tide elevations shall have no marine space of their own.

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C-1178
74-22252

Article 4

A coastal State cannot claim rights based on the concept of archipelago or archipelagic waters over a group of islands situated off its coasts.

Article 5

In areas of semi-enclosed seas, having special geographic characteristics, the maritime spaces of islands shall be determined jointly by the States of that area.

Article 6

The provisions of this chapter shall be applied without prejudice to the articles of this Convention relating to delimitation of marine spaces between countries with adjacent and/or opposite coasts.

Article 7

For the purposes of this chapter the term "marine space" implies either the territorial sea and/or continental shelf and/or the economic zone according to the context in which the term has been used.

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13 August 1974
ENGLISH
ORIGINAL: SPANISH

SECOND COMMITTEE

Argentina, Bolivia, Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Uruguay: draft article on islands and other territories under colonial domination or foreign occupation

The rights recognized or established in the present Convention shall not be invoked by the colonial or occupying Power in respect of islands and other territories under colonial domination or foreign occupation as long as that situation persists.

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THIRD CONFERENCE
ON THE LAW OF THE SEA

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A/CONF.62/C.2/L.62
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ORIGINAL: FRENCH

SECOND COMMITTEE

Algeria, Dahomey, Guinea, Ivory Coast, Liberia, Madagascar, Mali, Mauritius, Mauritania, Morocco, Senegal, Tunisia, Upper Volta and Zambia: draft articles on item 19. Régime of islands

Article I

1. An island is a vast naturally formed area of land, surrounded by water, which is above water at high tide.

2. An islet is a smaller naturally formed area of land, surrounded by water, which is above water at high tide.

3. A rock is a naturally formed rocky elevation of ground, surrounded by water, which is above water at high tide.

4. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide.

5. An island, islet, rock or a low-tide elevation are considered as adjacent when they are situated in proximity of the coasts of the State to which they belong.

6. An island, islet, rock or a low-tide elevation are considered as non-adjacent when they are not situated in the proximity of the coasts of that State to which they belong.

Article II

1. The baselines applicable to adjacent islands, islets, rocks and low-tide elevations, in accordance with article I, are considered as the baselines applicable to the State to which they belong and consequently are used in the measurement of the marine spaces of that State.

2. The marine spaces of islands considered non-adjacent, in accordance with paragraphs 1 and 6, shall be delimited on the basis of relevant factors taking into account equitable criteria.

3. These equitable criteria should notably relate to:

- the size of these naturally formed areas of land;
- their geographical configuration and their geological and geomorphological structure;
- the needs and interests of the population living thereon;
- the living conditions which prevent a permanent settlement of population;
- whether these islands are situated on the continental shelf of another State or in the proximity of its marine space;
- whether, due to their situation far from the coast, they may influence the equity of the delimitation.

4. A State cannot claim jurisdiction over the marine space by virtue of the sovereignty or control which it exercises over an islet, rock or low-tide elevation as defined in paragraphs 2, 3, 4 and 6 of article I.

5. In accordance with paragraph 4 of this article, safety zones of reasonable breadth may nevertheless be established around such islets, rocks or low-tide elevations.

Article III

1. In accordance with the provisions of article I, paragraph 6, and article II, paragraphs 2 and 3, the delimitation of the marine spaces between adjacent and/or opposite States must be done, in the case of presence of islands, by agreement between them according to principles of equity, the median or equidistance line not being the only method of delimitation.

2. For this purpose, special account should be taken of geological and geomorphological criteria, as well as of all other special circumstances.

Article IV

1. The provisions of articles I and II shall not apply either to insular or to archipelagic States.

2. A coastal State cannot claim rights based on the concept of archipelago or archipelagic waters by reason of its exercise of sovereignty or control over a group of islands situated off its coasts.

Article V

Concerning islands under colonial domination, racist régime or foreign occupation, the rights to the maritime spaces and to the resources thereof belong to the inhabitants of those islands and must profit only their own development.

No colonial or foreign or racist power which administers or occupies those islands shall exercise those rights, profit from them or in any way infringe upon them.

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A/CONF.62/C.2/L.67
16 August 1974

ORIGINAL: ENGLISH

SECOND COMMITTEE

Indonesia: draft article on historic waters

No claim to historic waters shall include land territory or waters under the established sovereignty, sovereign rights or jurisdiction of another State.

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74-22250

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THIRD CONFERENCE
ON THE LAW OF THE SEA

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30 July 1974

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SECOND COMMITTEE

Afghanistan, Bhutan, Bolivia, Botswana, Burundi, Czechoslovakia, Hungary, Laos, Lesotho, Mali, Mongolia, Nepal, Paraguay, Swaziland, Uganda, Upper Volta and Zambia: explanatory paper on draft articles relating to land-locked States 1/

In accordance with the list of subjects and issues relating to the law of the sea which was approved by the Sea-Bed Committee in 1972 and which, according to its report to the twenty-seventh session of the General Assembly, "should serve as a framework for discussion and drafting of necessary articles" at the Third United Nations Conference on the Law of the Sea, 2/ legal norms ensuring the rights and interests of land-locked and other geographically disadvantaged States shall become a part of the new codification of international law of the sea which will emerge from that Conference, for the list includes two specific items, one dealing with the problems of land-locked countries, the other with the problems relating to the rights and interests of shelf-locked States and States with narrow shelves or coastlines.

Item 9, relating to land-locked States, includes inter alia the following subitems:

"9.1 General Principles of the Law of the Sea concerning the land-locked countries

9.2 Rights and interests of land-locked countries

9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications

9.2.2 Equality of treatment in the ports of transit States

9.2.3 Free access to the international sea-bed area beyond national jurisdiction

9.2.4 Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area"

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021), vol. II.

2/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23).

Needless to say, a just and satisfactory solution of the above-mentioned points and their implementation in adequate provisions are of the utmost significance for all land-locked countries, both developed States exporting industrial goods and importing raw materials, and developing States whose economy largely depends on the exportation of raw materials and the importation of industrial products and complexes.

Under present international law the right of land-locked States to free access to and from the sea is a firmly established and legally binding principle. It shall be reaffirmed and elaborated in the new codification instrument on the law of the sea.

Such a conclusion is indispensable if the land-locked States are to be given a real opportunity to participate in the uses of the seas and to enjoy benefits from them on equal terms with coastal States. For this purpose the land-locked States must obtain adequate legal means and guarantees ensuring them of the exercise of their right of free access to and from the sea, including the right of free access to the sea-bed areas beyond national jurisdiction. This necessity arises from their geographically disadvantaged position, from the fact that they lack any sea coast whatsoever and, in most cases, vast distances separate them from the coast.

* * *

As a principle of international law the right of land-locked countries to free access to and from the sea was also provided for and implemented step-by-step in bilateral and multilateral treaties, mostly concluded in this century. This development had several significant milestones, particularly the Barcelona Convention and Statute on Freedom of Transit in 1921, the Geneva Conventions on the Law of the Sea in 1958 and the New York Convention on Transit Trade of Land-Locked States in 1965.

Without underestimating the relevance of these instruments, their positive contributions to the struggle for recognition and development of the right of free access to and from the sea, as well as to practical settlements of many issues involved, it must be stated that in some respects they brought only partial solutions.

Thus, for example, the Barcelona Statute facilitated transit in general and was helpful to land-locked States, particularly those in Europe, by opening up to them necessary routes to the sea. Moreover, this multilateral regulation inspired the conclusion of bilateral agreements which were based on the principles of the Barcelona Statute.

On the other hand, this instrument did not provide for all means of transport and communication, having left aside, in particular, traffic by roads and pipelines, the importance of which has significantly grown since that time. Furthermore, the number of contracting parties to the Barcelona Convention and Statute, still in force, has remained relatively limited and it has lacked adherence among non-European States.

In the years preceding the first United Nations Conference on the Law of the Sea, the land-locked countries made vigorous efforts on different international levels to draw the attention of the whole international community to their specific problems and needs for ensuring their rights in the forthcoming codification. Their efforts were remarkably supported by the United Nations General Assembly which recognized in its

resolution 1028 (XI) of 20 February 1957 "the need of land-locked countries for adequate transit facilities in promoting international trade" and invited all Members of the United Nations "to give full recognition to the needs of land-locked Member States in the matter of transit trade and, therefore, to accord them adequate facilities in terms of international law and practice in this regard, bearing in mind the future requirements resulting from the economic development of the land-locked countries".

On the eve of the first United Nations Conference on the Law of the Sea a Preliminary Conference of Land-Locked States was held in Geneva from 10 to 14 February 1958 which adopted, as a result of its work, a document entitled "Principles Enunciated by the Preliminary Conference of Land-Locked States". Seven principles included in this document represented a restatement of principles and norms of international law concerning the right of land-locked States to free access to the sea and specific rights derived therefrom. Endorsed by all the then land-locked States this document became the basic paper of the Geneva Conference in its consideration of problems of States having no seacoast. 3/

In the Geneva Codification of the Law of the Sea significant progress towards the recognition of full equality of land-locked States in the exercise of freedoms of the seas was made. Article 2 of the 1958 Convention on the High Seas confirmed that the high seas were open "to all nations" and that freedoms arising from the freedom of the high seas were provided "both for coastal and non-coastal States". The right of land-locked States to free access to the sea was specifically declared in article 3 of this Convention. It stated that "in order to enjoy the freedom of the seas on equal terms with coastal States, States having no sea-coast should have free access to the sea".

Nevertheless, though including a provision in favour of free transit for land-locked States through the territory of States situated between the sea and a State having no seacoast, as well as equal treatment for ships flying the flags of land-locked States as regards access to seaports and the use of such ports, article 3 of the Geneva Convention on the High Seas included a number of elements that in fact diminished the practical effect of the above-mentioned principle. By emphasizing that transit States shall accord free transit and other facilities by "common agreement" with a State having no seacoast and, moreover, by indicating that free transit should be accorded "on a basis of reciprocity", article 3 of the Geneva Convention on the High Seas made in fact the exercise of the principle of free access of land-locked States to the sea dependent primarily on transit States.

Besides, the principle of the 1921 Barcelona Declaration concerning the right of flags of both, coastal and non-coastal States was restated in article 4. Finally, a principle relating to land-locked States, equally with other States, was included in article 14 of the Convention on the Territorial Sea and the Contiguous Zone. This provision states generally that "ships of all States, whether coastal or not, shall enjoy the right of innocent passage through the territorial sea".

3/ Document A/CONF.13/C.5/L.1, annex 7.

/...

Therefore, it must be concluded that the 1958 Geneva Codification, though declaring the principle of free access to the sea and recognizing the equality of States having no sea coast with coastal States, did not adopt adequate measures to ensure their effective exercise. Its half-way provisions, more declaratory than effective, could not satisfy the real needs of land-locked countries, for they did not take into due account their geographically most disadvantaged position in relation to the uses of the sea.

This fact was confirmed by developments following the Geneva Codification Conference, particularly by the first United Nations Conference on Trade and Development which was considering, among other points, "the proposal for the formulation of an adequate and effective International Convention, or other means to ensure the freedom of transit trade of land-locked countries". As a result the first UNCTAD Conference adopted a special document including eight principles, together with an Interpretative Note. 4/

It should be recalled that Principle I of this significant document emphasized that "the recognition of the right of each land-locked State of free access to the sea is an essential principle for the expansion of international trade and economic development". Principle VII already reflected the idea that the right of free access of land-locked countries to the sea originated from their disadvantaged position in relation to the sea, for it stated that "the facilities and special rights accorded to land-locked countries in view of their special geographical position are excluded from the operation of the most-favoured-nation clause".

The principles concerning land-locked countries adopted at the first UNCTAD Conference have much significance for a full recognition and implementation of the right of free access to and from the sea, a right which the land-locked countries urgently need if they are to compensate for the adverse effects of their disadvantaged geographical situation depriving them of any sea coast.

Moreover, the first UNCTAD Conference inspired the preparatory work for and the convocation of, a Conference on Transit Trade of Land-Locked Countries which was held in New York. In the Convention, drawn up at this Conference and adopted on 8 July 1965, the UNCTAD principles including a full recognition of the right of each land-locked State of free access to the sea, were incorporated. Furthermore, specific questions of the freedom of transit were settled in 16 substantive articles of the Convention.

The solutions offered by the Convention may be qualified as a compromise between the needs of land-locked countries and the interests of their transit partners. In some aspects, however, the interests of transit States prevailed. This is evident especially from article 15 of the New York Convention which states that "the provisions of this Convention shall be applied on a basis of reciprocity". The Convention thus made no difference between the needs for transit arising from the geographical location of States having no sea coast, and any other transit serving only to facilitate transport and communication in general.

4/ Final Act of UNCTAD, document E/CONF.46/428, Annex A.I.2.

The land-locked States therefore earnestly hope that this Conference will not adopt the same restrictive approach which would create an unbalanced burden for the land-locked States.

The practical impact of the New York Convention on Transit Trade of Land-Locked Countries has not been great, for the number of its parties has remained rather limited. Moreover, they are mostly land-locked States or such coastal States which are not typical transit countries.

For all these and other reasons it must be concluded that a further step to facilitate the exercise of the right of free access of land-locked States to and from the sea is necessary, in order to make it more corresponding to present and expected conditions. This step should be taken now, in the framework of the Third United Nations Conference on the Law of the Sea.

In this connexion it should be recalled that the developing land-locked and other geographically disadvantaged States, which met in a conference held in Kampala, Uganda, from 20 to 22 March 1974, adopted a declaration containing principles reflecting the essential rights and interests of the developing land-locked and other geographically disadvantaged States to be embodied in the Convention on the Law of the Sea (document A/CONF.62/23 of 2 May 1974)

* * *

In order to facilitate the work of the Conference in this field a group of non-coastal States submitted at the last session of the Sea-Bed Committee in Geneva a document called "Draft Articles relating to Land-Locked States" (document A/AC.138/93 of 2 August 1973). The draft articles should serve as a basis for the chapter of the future Convention on the Law of the Sea that would deal with problems of land-locked countries relating to free access to and from the sea, including the international sea-bed area, as well as their participation in the international régime, including the machinery and the equitable sharing of the benefits of the area.

As stated in the explanatory note to the draft articles, they are not intended to stand alone but "shall form an inseparable part of the law of the sea to be fitted to appropriate places into a comprehensive Convention relating to the law of the sea". Neither do the draft articles include a detailed regulation, thus remaining on the level of fairly general but legally binding principles, following the pattern of other principles to be included in the new Codification of the Law of the Sea.

First of all, attempts have been made in this document to express the up-to-date outcome of the development regarding the right of free access to the sea, starting with the 1921 Barcelona Statute on Freedom of Transit until the 1965 New York Convention on Transit Trade of Land-Locked Countries. Therefore, the greater part of the draft articles presents a restatement and confirmation of recognized principles, using as much as possible the language of previous instruments.

In some respects, however, the draft articles go further and are introducing new elements, taking into account the real needs of land-locked countries under present economic and technological conditions. Nevertheless, it has been the over-all aim of the drafters of this document to reflect in their proposals adequately existing practice and experience as developed in different parts of the world and to derive therefrom a common denominator that might be shared by all land-locked States and recognized by the whole

(a) Fundamental principles

The draft articles relating to land-locked States begin with definitions of the notions "traffic in transit", "person in transit", "transit State" and "means of transport" which are based on the definitions of the Barcelona Statute and New York Convention.

It is evident from the definition of "means of transport" that the draft articles are intended to regulate transit by rail, road and waterways, and under special arrangements by pipelines, gaslines and storage tanks. They shall not, however, affect the conditions of transport by air which, though being undoubtedly one of the means of transport serving the land-locked countries in their speediest access to and from the sea and therefore quite indispensable, shall remain, due to its special character, subject to bilateral or multilateral agreements relating to air transport, as explicitly stated in paragraph 3 of article XX of the draft.

The term "traffic in transit" also includes, beside transit of baggage, goods and means of transport across the territory of one or more transit States, transit of persons as in the 1921 Barcelona Statute. However, the transit of persons is limited to passage of persons "whose movement is not prejudicial to security, law and order of the transit State".

The principles inserted in articles II and III may be qualified as corner-stones of the whole draft:

Article II characterizes the right of land-locked States to free access to and from the sea as "one of the basic principles of the law of the sea" and "an integral part of the principles of international law". In this way it is emphasized that the realization of the rights of land-locked countries in the uses of the sea is the concern of the international community as a whole and shall be considered as an inseparable part of the new Codification of the Law of the Sea.

The fundamental right of free access to and from the sea is declared in paragraph 2 of article II: land-locked States, irrespective of the origin and characteristics of their land-locked conditions, shall have this right "in order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the sea-bed and its resources on equal terms with coastal States".

In article III the stipulation of the main instrument that permits the exercise of the right to free access to and from the sea is inserted, i.e. the obligation of transit States to accord "free and unrestricted transit for traffic in transit of land-locked States, without discrimination among them, to and from the sea by all means of transport and communication". Needless to say, without the right of free and unrestricted transit, and the corresponding obligations on the part of transit States, the fundamental right of States having no sea coast to free access to and from the sea, as well as their equal rights to enjoy the benefits from the uses of the sea would remain ineffective, a nudum ius without any practical significance.

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Both principles are based on several relevant documents. Their present wording is abstracted from Principles Enunciated by the 1958 Preliminary Conference of Land-Locked Countries (in particular Principle V); from article 3 of the 1958 Convention on the High Seas; from UNCTAD Principles of 1964 (in particular Principle IV); and from article 2 of the 1965 Convention on Transit Trade of Land-Locked Countries. Of course, both the right of free access to and from the sea and the freedom of transit are spelled out in a manner which corresponds to contemporary conditions and to the aims of the new Codification of the Law of the Sea.

Without any doubt, the right of free access to and from the sea, as well as the freedom of transit originating from this right, shall be exercised in accordance with the provisions of the future Convention on the Law of the Sea.

(b) Position of land-locked States on the high seas and in maritime ports

The two fundamental articles are followed by a group of provisions confirming the traditional rights of land-locked countries arising from their right of free access to and from the sea, and their equal position on the high seas, in the territorial sea and in internal waters:

Article IV deals first with the rights of flags of land-locked States which was recognized as early as in 1921 by a special declaration unanimously adopted by the Barcelona Conference. In accordance with a generally recognized principle of international law, which is reflected in article 2 of the 1958 Convention on the High Seas, vessels flying the flag of a land-locked State shall have identical rights to those enjoyed by vessels of coastal States. Similarly, in the territorial sea and in internal waters, their vessels shall have identical rights and enjoy treatment equal to that enjoyed by vessels flying the flags of coastal States.

Article V declares the right of vessels of land-locked States to use maritime ports under the most favoured treatment, and article VI provides that traffic in transit shall not be subject to any custom duties, taxes or other charges, except charges levied for specific services rendered in connexion with such traffic.

As to their substance all these articles are based on provisions of previous documents, in particular on paragraph 1 of article 3 of the 1958 Convention on the High Seas; article 14 of the 1958 Convention on the Territorial Sea and the Contiguous Zone; principles II - IV of the UNCTAD Principles as included in the 1965 New York Convention; and article 4 of the New York Convention.

A new element is, however, included in paragraph 2 of article VI, according to which "if the port installations and equipments or the means of transport and communication or both existing in a transit State are primarily used by one or more land-locked States, tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned". The adoption of such a provision and its application in particular cases is justified by the extent of use of some ports and communications by certain land-locked States.

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For the purposes of these draft articles "maritime port" is understood to signify any port receiving sea-going vessels and serving international economic relations or transit of land-locked States. The granting of most favourable conditions to land-locked States, as provided in draft articles V and VI should balance the very considerable disadvantages of States having no sea coast or maritime ports.

Also belonging to this group of articles are rules concerning free zones and other facilities which may be provided, according to article VII, at the ports of entry and exit in the transit States, of course by agreement between those States and the land-locked States concerned. Such zones, which will be needed mostly in those maritime ports where a free port does not exist, shall be exempted from the customs regulations of the coastal States; they remain, however, subject to their jurisdiction with regard to police and public health regulations.

It should be recalled that the main provision of article VII of the draft is identical with article 8, paragraph 1 of the 1965 New York Convention.

As provided in article VIII of the draft, in the ports of transit or free zones, land-locked States shall have the right to appoint customs officials of their own, empowered in accordance with practice of States to make necessary arrangements and supervise operations and services for movement of traffic in transit. This draft provision reflects practice existing in different coastal States on the basis of their bilateral agreements with neighbouring land-locked countries. It is believed that such practice should become a general standard.

(c) Provisions relating to questions of transport and communications

Articles IX-XIII of the draft include provisions regulating different questions of transport and communications.

According to article IX, transit States shall provide adequate means of transport, storage and handling facilities at the points of entry and exit, and at intermediate stages for the smooth movement of traffic in transit. This draft article corresponds again to a similar provision of paragraph 1 of article 4 of the 1965 New York Convention.

Article X may be considered as an innovation according to which the land-locked States, in agreement with the transit State or States concerned, shall have the right to construct, modify or improve means of transport and communications or the port installations and equipment in the transit States when such means are inadequate or may be improved in any respect. Such principle, however, is justified by the need to develop and improve the means of transport and communications which, in the second half of the twentieth century are much greater than in previous periods.

Article XI, dealing with delays or difficulties in traffic in transit, is identical with article 7 of the 1965 New York Convention.

Some additional provisions to the general principle of freedom of transit are included in articles XII and XIII:

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In the first of these provisions, the right of land-locked States to access to and from the sea through navigable rivers which pass through their territories and the territories of transit States or which form a common boundary between those States and the land-locked States, should be recognized. This provision concerns all navigable rivers which may be used for traffic in transit, be they declared as international in a special legal instrument or not.

It should be recalled that from the historical point of view navigable rivers were the first means of communication used for international transit and that in the 1921 Barcelona Statute on Freedom of Transit its contracting parties assumed the obligation "to facilitate free transit by rail or waterway on routes in use convenient for international transit".

By the second of the above mentioned articles is provided the right of land-locked States to use one or more of the alternative routes or means of transport for purposes of access to and from the sea. Though an innovation, this provision is justified by the need to ensure the speedy and smooth movement of traffic in transit that might be, in fact, hindered or made more expensive when limited to a single route of access to the sea.

(d) Sovereignty of transit States and protection of their rights

Land-locked States, while possessing the rights provided for in the draft articles, which are derived from the principle of their free access to and from the sea, are well aware that transit States maintain sovereignty over their respective territories.

However, this provision shall not be construed as prejudicing territorial disputes of any kind.

Therefore, in article I the inclusion of pipelines, gaslines, and storage tanks when they are used for traffic in transit and other means of transport in the definition of "means of transport" shall remain "subject to appropriate arrangements as and when necessary". According to article VII free zones and/or other facilities at the ports of entry and exit in the transit States may be provided, but it shall be done by agreement between those States and the land-locked States. Any improvement of the means of transport and communications that would be made by the land-locked States under the scope of article X should be subject to agreement with the transit State or States concerned.

Moreover, the draft articles include a general clause safeguarding the rights of transit States against eventual infringements of any kind: according to article XIV the transit State shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests.

Furthermore, the 1973 draft articles include in article XV a special provision concerning "temporary deviations in exceptional cases". This provision is identical with the language of article 7 of the 1921 Barcelona Statute and analogical to article 12 of the 1965 New York Convention.

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(e) Question of reciprocity

The land-locked States attach a great importance to a just solution of the question of reciprocity.

As is known the 1958 Geneva Convention on the High Seas in its article 3, and in similar terms the 1965 New York Convention on the Transit Trade of Land-Locked Countries in its article 15, have secured to land-locked States the freedom of transit "on a basis of reciprocity". These provisions were apparently based on a wrong supposition that both the land-locked and the transit States have comparable positions and identical needs for transit. This is however not the case, for the purpose of free transit of land-locked countries is just that of ensuring them the exercise of their right of access to and from the sea.

The present draft declares therefore that "reciprocity shall not be a condition of free transit of land-locked States" the fulfilment of which might be required by transit States in favour of their own transit to any other country, for it would not be necessitated by the need for access to the sea. Such condition would not be just, in particular, in relation to those land-locked countries which are surrounded by several transit States.

At the same time article XVI of the draft does not exclude the possibility of providing reciprocal transit facilities under special agreements, if the level of relations between the partners concerned or their other interests lead them to such arrangements. Certainly, exact economic data would permit to recognize in each individual case whether at all, or to what degree, both sides might derive benefits from reciprocity, or a strict application of this condition would create an unbalanced burden for the land-locked State alone.

(f) Position of land-locked States in the régime of the sea-bed and their participation in the Sea-Bed Machinery

The draft articles submitted by land-locked States also contain, in the form of general guidelines, certain provisions concerning their participation in the exploration and exploitation of the sea-bed and its resources.

Article XVII first declares that land-locked States shall have the right of free access to and from the area of the sea-bed, a principle which was already raised in discussions on the régime of the sea-bed in the Sea-Bed Committee. For this purpose the land-locked States shall have the right to use all means and facilities provided with regard to traffic in transit.

It is obvious from the language of this provision that land-locked States do not require some privileges in this respect, but only equal rights and opportunities in the framework of the régime to be established for the area of the sea-bed beyond the limits of national jurisdiction. The aim of this article is to ensure that land-locked States will exercise free and unrestricted transit across the territory of one or more transit States not only for reasons of their access to the surface and waters of the sea for purposes of its traditional uses, such as navigation,

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fisheries and others, but as well to its newly accessible areas of the sea-bed and subsoil thereof. Of course, their activities in this area shall be governed by principles and provisions of the Convention concerning the régime of the sea-bed and its machinery.

Furthermore, article XVIII includes some guidelines regarding representation of land-locked States in organs of the future international organization of the sea-bed in which not all member States would be represented, in particular in its Council. In such organs there should be an adequate and proportionate number of land-locked States, both developing and developed.

Article XIX deals with the very crucial point of decision-making in the machinery. It is understandable why the land-locked States, as a group of countries facing special problems arising from their disadvantaged geographical position in relation to the seas, insist on observing the principle that decisions of substance shall be made with due regard to their special needs and problems. It means that on questions of substance which affect the interests of land-locked States, decisions shall not be made without their participation or even against them. In this connexion the land-locked States maintain the view that they shall have equal rights in the decision-making process of the machinery.

(g) Relation of the general regulation to special agreements and question of most-favoured-nation clause

As has been already stated, a general regulation of the problems of land-locked countries would not at all exclude the possibility of concluding bilateral, regional or multilateral agreements in which special arrangements would be made. On the contrary, the draft requires the settlement of specific questions between the land-locked and transit States concerned in such agreements. Therefore, article XX of the draft states that the provisions of the future Convention governing the right of free access to and from the sea shall not abrogate existing special agreements between two or more States, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

On the other hand, the regulatory role of the new Convention, which will introduce a general standard, must be preserved. The same article XX provides therefore that in case existing special agreements ensure less favourable conditions than those which will be contained in the Convention, the States concerned will undertake that they shall bring them in accord with the present provisions at the earliest occasion.

A similar undertaking is usual in conventions dealing with a general regulation. It was also provided in article 10 of the 1921 Barcelona Statute on Freedom of Transit.

Of course, the future Convention, as the 1965 New York Convention, shall not preclude providing greater facilities in special agreements.

Since the new Convention would establish rights and facilities in view of the special geographical position of land-locked States and their fundamental right to free access to and from the sea, its provisions, as well as provisions of special agreements regulating the exercise of the right of free access to and from the sea and the area of the sea-bed, should be excluded from the application of the most-favoured-nation clause in favour of any third State. This principle, included in article XXI of the draft, is analogical to article 10 of the 1965 New York Convention.

Similarly, it does not prevent the extension of facilities and special rights that would be accorded to land-locked States under the new Convention or special agreements in favour of a land-locked State which would not become a party to this Convention on the basis of the most-favoured-nation clause of a treaty between that land-locked State and a contracting State of the Convention which have arranged such facilities and special rights.

The last provision of the draft (article XXII) includes a principle concerning settlement of disputes that would arise from the interpretation and application of the articles relating to land-locked countries. This principle, too, is drafted in general terms, stating that any such dispute "shall be subject to the procedures for the settlement of disputes provided for in the Convention".

Therefore, it is no way prejudicial to a later agreement on procedures that would govern the settlement of disputes arising from the interpretation and application of other provisions of the future Convention on the Law of the Sea.

UNITED NATIONS

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United Nations, N.Y.

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Press Release SEA/43
5 July 1974

THIRD COMMITTEE OF LAW OF SEA CONFERENCE HOLDS FIRST MEETING

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The Third Committee (marine environment, research and technology) of the Third United Nations Conference on the Law of the Sea held its first meeting on 4 July.

The Committee heard a number of proposals by its Chairman, Alexander Yankov (Bulgaria), arising from private consultations on the organization of the Committee's work, and decided to continue the consultations among regional groups with the aim of reaching general agreement. The informal consultations would continue that afternoon and over the week-end.

On Monday, 8 July, the Chairman is to meet again with the heads of regional groups to consult on the manner in which the Committee will go about its tasks. The Committee is expected to begin next week its consideration of the items assigned to it, once the organization of its work has been approved.

The positions of the various regional groups were presented by the representatives of El Salvador (for the Latin American group), Senegal (for the African countries), Finland (for the Western European and other countries), Sri Lanka (for the Asian nations) and Romania (for the Eastern European group). The representatives of Canada and the United States also expressed their views.

Spokesmen for the Latin American, Asian, African and Socialist Countries of Eastern Europe spoke in favour of an organization of work similar to that adopted by the Second Committee (general law of the sea issues). Under such an arrangement, the Third Committee would not for the time being set up working groups on each item; rather, the Committee as a whole would work on its three items in informal or official meetings, under its Chairman.

Finland and the United States, on the other hand, favoured the establishment of working groups. Canada suggested the creation of a working group on marine pollution, with a Latin American Chairman, and proposed that separate consideration should be given to the items on marine research and technology.

(more)

The United States urged that work be done on the drafting of specific treaty articles concerning the items assigned to the Committee. He suggested that the Committee, in deciding how to organize its work, should take advantage of the experience of the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor Beyond the Limits of National Jurisdiction -- the preparatory body for the Conference.

The countries which did not favour the immediate creation of working groups indicated that most delegations did not have enough persons to serve on such groups. All those who spoke expressed a desire to achieve consensus in the discussions on organization of work.

The items assigned to the Third Committee are preservation of the marine environment, scientific research, and development and transfer of technology.

The officers of the Committee, elected at the organizational session of the Conference held in New York in December, are: Chairman, Alexander Yankov (Bulgaria); Vice-Chairmen, Colombia, Cyprus and the Federal Republic of Germany; Rapporteur, Abdel M.A. Hassan (Sudan).

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UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

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Third Committee

Kenya: draft articles for the preservation and the protection of the marine environment for inclusion in the convention on the law of the sea

Note: These articles are a substitute for the articles appearing in document A/AC.138/SC.III/L.41

Preamble

This will be inserted later.

Definitions

For the purposes of this Convention:

(a) "The Authority" means the International Authority established under chapter ... of this Convention.

(b) "Conservation of the marine environment" means the aggregate of measures taken to render possible the maintenance of the natural quality, productivity and the ecological balance of the marine environment.

(c) "Marine environment" means the area comprising the air space above the sea, the surface and the subsoil beyond the high tide mark including the living and non-living resources therein.

(d) "Marine pollutant" means any substance or energy which if introduced to the marine environment results in such deleterious effects as harm to the living resources, hazard to human health, hindrance to marine activities, reduction of marine amenities and impairment of the quality for use of the marine waters.

(e) "Pollution of the marine environment" means the introduction, deliberately or otherwise and directly or indirectly of marine pollutants into the marine environment.

(f) "Vessel" means crafts of any kind, self-propelled or not, that displace themselves on the surface of the water, in the water column or in the air space above the marine environment.

RIGHTS OF STATES AND THE AUTHORITY

Article 1

Within the limits of national jurisdiction the coastal State shall have sovereign rights to explore and exploit the marine resources therein pursuant to the coastal States environmental policies and in accordance with the provisions of these articles. Within these limits the coastal State shall have the right to take appropriate measures to prevent or mitigate dangers or hazards caused by the pollution of the marine environment.

Article 2

In areas beyond the limits of national jurisdiction the Authority shall have the right to explore and exploit the sea-bed marine resources therein on behalf of mankind and in accordance with applicable international law. Within these limits the Authority shall have the right to ensure that appropriate measures are taken to preserve the marine environment and prevent damage by pollution.

DUTIES AND OBLIGATIONS OF STATES, THE AUTHORITY AND OTHER INTERNATIONAL BODIES

Article 3

States and the Authority have the obligation to protect and preserve the quality and the resources of the marine environment in accordance with the provisions of these articles.

Article 4

States shall take all necessary measures to prevent or control pollution of the marine environment. In doing so, States shall use the best practicable means in accordance with their capabilities and their environmental policies individually or jointly. In particular, States shall take measures to ensure that activities carried out under their control or within the area under their jurisdiction do not cause damage by pollution of the marine environment.

Article 5

States shall ensure that measures taken under these articles shall deal with all sources of pollution of the marine environment, whether land, marine or any other sources including rivers, estuaries, the atmosphere, pipelines, outfall structures, vessels, aircraft and sea-bed installations or devices. Such measures shall include inter alia:

(a) With respect to land-based sources of pollution of the marine environment, measures designed to minimize the release of toxic, harmful and persistent substances into the marine environment.

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(b) With respect to pollution from vessels, measures relating to

(i) prevention of accidents

(ii) safety of operations at sea, and

(iii) intentional or other discharges, including measures relating to design, equipment, operation and maintenance of vessels, particularly those engaged in shipment of substances whose release, accidently or through normal operation of the vessel, would cause pollution of the marine environment.

(c) With respect to installations, devices or equipment engaged in the exploration and exploitation of the marine resources of the sea-bed, subsoil and the water column, as well as other devices operating in the marine environment, measures for the prevention of accidents and for the safety of operations at sea and especially measures related to design, equipment, operation and maintenance of such installations.

(d) With respect to pollution from the atmosphere, measures relating to the prevention of accidents involving flying crafts, and release of toxic and harmful substances and particularly atmospheric nuclear fall-outs.

Article 6

The measures taken pursuant to these articles shall,

(a) With respect to land-based sources of pollution of the marine environment, take into account appropriate geographic, ecologic and economic factors, as well as regional and international standards referred to in article ... of this Convention.

(b) In respect of marine and atmospheric based sources of pollution of the marine environment, conform to generally accepted regional or international standards referred to in article ... of this Convention.

Article 7

In taking measures to prevent pollution of the marine environment States shall,

(a) Have due regard to other legitimate uses of the marine environment and shall refrain from unjustifiable interference with such uses.

(b) Guard against the effect of merely transferring damage from one area to another.

Article 8

The Authority shall have, among its obligations, the setting up of binding standards to control pollution from exploration and exploitation of the marine resources of the sea-bed and the water column beyond the limits of the national jurisdiction.

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Article 9

The Authority shall ensure that all necessary measures are taken to prevent the pollution of the marine environment from all sources beyond the limits of national jurisdiction. In doing so it shall use the best practicable means in accordance with its capability, individually or jointly with other competent international bodies. In particular the Authority shall ensure that all activities carried out in areas beyond the limits of national jurisdiction do not cause damage by pollution of the marine environment.

Article 10

States and competent international bodies shall notify each other of areas within the marine environment which they become aware have been polluted or are in imminent danger of being polluted. The authorities responsible for the area which is in imminent danger of being polluted or which has been polluted shall ensure that necessary measures are taken to terminate the danger or minimize the damage in accordance with appropriate laws and regulations.

Article 11

The UNEP shall provide the over-all integrated framework for comprehensively co-ordinating, reviewing and guiding those activities of States, and of intergovernmental and non-governmental organizations that may affect the quality of the marine environment.

CO-OPERATION AMONG STATES AND INTERNATIONAL BODIES

Article 12

States shall co-operate on a global basis and as appropriate, on a regional basis, directly or through competent international or regional bodies, to conclude treaties, and elaborate rules and procedures consistent with this Convention for the prevention of marine pollution taking into account all relevant factors.

Article 13

States shall co-operate, directly or through competent international or regional organizations for the purpose of promoting studies, undertaking programmes of scientific research and encouraging exchange of information and data acquired concerning the pollution of the marine environment.

Article 14

States shall, according to their capabilities, actively support and contribute to appropriate international programmes designed to acquire knowledge for enhancing the assessment of pollution sources, pathways, exposures, risks and remedies.

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Article 15

States shall co-operate directly or through competent international or regional organizations in formulating appropriate scientific criteria for establishing and elaborating adequate rules and standards for the prevention of marine pollution.

Article 16

States shall directly or through competent international or regional organizations, co-operate in eliminating the effects of pollution and preventing or minimizing damage to the marine environment.

SCIENTIFIC AND TECHNICAL ASSISTANCE

Article 17

States shall, individually or through competent international or regional organizations:

(a) Promote programmes of scientific, educational, technical and other assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution. Such assistance shall include, inter alia,

(i) the training of scientific and technical personnel,

(ii) facilitation of their participation in relevant international programmes,

(iii) supply of necessary equipment,

(iv) enhancement of developing countries' capabilities to manufacture such equipment,

(v) development of research and monitoring facilities and other educational programmes concerned with the preservation of the marine environment and the prevention of marine pollution or the minimization of its effects.

(b) Promotion and development of contingency plans for responding to major pollution incidents and provision of appropriate assistance to developing countries for the minimization of the effects of such incidents.

Article 18

Developing States shall, for the purpose of the prevention of the marine pollution or the minimization of its effects, be granted preference in the allocation of appropriate funds and technical assistance facilities and the utilization of the specialized services of international organizations.

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MONITORING

Article 19

States shall, as much as is practicable, employ internationally agreed systems of observations, measurement and analysis to determine the risk or effect of pollution on the marine environment, especially pollution likely to arise from activities which they permit or in which they engage.

Article 20

States shall disseminate as soon as possible, the data and information obtained on the risks and effects of pollution on the marine environment to States likely to be affected and to the Authority, as well as to UNEP and to other concerned international organizations, with a request to disseminate such data and information.

REGULATIONS

Article 21

Acting through competent international or regional organizations, States shall establish international standards for the prevention of pollution of the marine environment from all sources under their jurisdiction taking into account, inter alia, available scientific evidence, geographical, ecological and economic factors. States shall, individually and to the extent possible endeavour to adopt these standards within the limits of their national jurisdiction.

Article 22

The Authority individually or in collaboration with other competent international or regional bodies shall formulate and adopt rules and regulations for the preservation of the marine environment and prevention of pollution arising from the air space, the exploration and exploitation of the marine resources of the sea-bed, subsoil and the water column beyond the limits of national jurisdiction.

Article 23

States, acting through competent international or regional bodies, shall establish and adopt international standards for the prevention of pollution from vessels. In establishing these standards due regard shall be given to the need for appropriate standards for special situations.

Article 24

The United Nations Environmental Programme shall endeavour to ensure that standards formulated by States, the Authority and other competent international or regional bodies with respect to any sector of the marine environment are complementary and in accordance with established environmental principles and objectives.

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ENFORCEMENT

Article 25

States shall take appropriate measures to give effect to these articles in respect of land-based and atmospheric sources of marine pollution.

Article 26

Coastal States shall enforce their national or adopted international regulations against pollution of the marine environment on all vessels whether in their ports or in transit, or engaged in the exploration or exploitation of the marine resources within the limits of their national jurisdiction.

Article 27

Coastal States shall enforce national or adopted international measures against pollution of the marine environment originating from the exploration and exploitation of the marine areas within the limits of their national jurisdiction.

Article 28

The Authority shall ensure that measures against all sources of pollution of the marine environment beyond the limits of national jurisdiction are implemented.

RESPONSIBILITY OF STATES AND OF THE AUTHORITY

Article 29

States shall be responsible for damage caused by their activities, those of their nationals, physical or juridical and others under their control or registration to any part of the marine environment.

Article 30

The Authority shall be responsible for damage caused by pollution to the marine environment by its activities or by the activities of those who the Authority permits to undertake exploration and exploitation of the marine resources in areas beyond the limits of national jurisdiction.

COMPENSATION FOR DAMAGE

Article 31

(Appropriate formulation to be worked out later)

SETTLEMENT OF DISPUTES

Article 32

(Appropriate formulation to be worked out later)

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Greece: draft articles on the enforcement of the provisions of the protection of the marine environment

ENFORCEMENT

A. On pollution from land-based sources

Article 1

Regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from land-based sources of pollution shall be enforced by the State within the territory which is the source of pollution.

B. On pollution from the exploration and exploitation of the sea-bed

Article 2

Regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from pollution arising from the exploration and exploitation of the sea-bed shall be enforced by the coastal State within the areas under its national jurisdiction and by the flag State.

C. On pollution from dumping at sea

Article 3

Regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from dumping at sea shall be enforced:

(a) by any State within its territory;

(b) by the flag State on vessels and aircraft registered in its territory or flying its flag;

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(c) by the coastal State on vessels and aircraft engaged in dumping within areas under its national jurisdiction;

(d) by the port State on vessels and aircraft loading in its ports or offshore terminals matter which is to be dumped.

D. On pollution from ships

Article 4 - Primary obligation

(1) Regulations adopted in accordance with the provisions of this Convention for the protection and preservation of the marine environment from pollution from ships shall be primarily enforced by the flag State which has a right and obligation to this effect.

(2) At the documented request of any State the flag State has an obligation to institute proceedings against the owner or master of any ship registered within its territory or flying its flag for the alleged violation of such regulations and inform the requesting State of the action taken upon such request.

(3) After appropriate inspection the flag State has the obligation to issue a certificate that a ship registered in its territory or flying its flag complies with the regulations referred to in paragraph (1) of this article. Such a certificate duly issued under the authority of a Party to this Convention shall be accepted by other Parties as having the same validity as a certificate issued by them.

Article 5 - Inspection

(1) The flag State has the right and the obligation to inspect ships registered in its territory or flying its flag anywhere at such regular intervals as provided for by regulations adopted in accordance with this Convention and at any other time when deemed appropriate.

(2) The coastal State has within areas under its national jurisdiction the right to inspect a ship registered in the territory or flying the flag of another State where serious pollution has been caused by such ship in the above areas.

(3) The port State has the right to inspect any ship while in its ports or at its offshore terminals.

(4) The periodical inspection by the flag State shall, and any other inspection by such State may, refer to the actual condition of the ship. Inspection by coastal or port State shall be limited to verifying that there is on board a valid certificate unless there are clear grounds that the condition of the ship does not correspond substantially with the particulars in that certificate.

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Article 6 - Proceedings

(1) Where a violation of regulations concerning discharge of pollutants at sea is committed by a ship within the internal waters or the territorial sea of a contracting State proceedings against such ship may be instituted by the flag State, the coastal State or, at their documented request, by any port State.

(2) Where a violation of regulations concerning discharge of pollutants at sea is committed by a ship within the economic zone of a contracting State, proceedings shall be instituted by the flag State on the documented request of the coastal State within the economic zone in which the violation occurred. If no action is taken by the flag State within six months from the receipt of such request proceedings shall be instituted by the coastal State or, at its documented request, by any port State.

(3) Where a violation of regulations concerning discharge of pollutants at sea is committed by a ship in the area beyond the limits of national jurisdiction proceedings shall be instituted by the flag State on its initiative or at the documented request of any contracting State.

(4) Where a violation of regulations concerning ship design, construction, equipment, manning or any matter other than discharge has been committed by a ship, proceedings shall be instituted by the flag State on its initiative or at the documented request of any contracting State within the area of national jurisdiction in which such violation resulted in pollution or serious danger of such pollution.

E. Non-duplication of proceedings

Article 7

Where proceedings have been initiated by a contracting State against a ship in accordance with preceding articles 2, 3 or 6, no other contracting State shall start proceedings against the same ship for the same violation.

F. Enforcement of sentences

Article 8

Where a sentence is issued in accordance with the provisions of articles 2, 3 or 6 it shall be enforced by any port State at the request of the State the appropriate authorities of which issued such sentence.

G. Undue delay to ships

Article 9

(1) In the exercise of rights and obligations under articles 2, 3 and 6 of this Convention all possible efforts shall be made to avoid undue detention or delay of a ship.

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(2) A ship shall be entitled to compensation for any loss or damage suffered from undue detention or delay under articles 2, 3, 5, 6 or 8 of this Convention or caused by other wrongful application of this Convention.

(3) The owner of such ship may bring an action for damages before the courts of the State liable under paragraph 2 above or, in case such State is not the flag State, initiate the proceedings provided for in articles ..... of this Convention for the settlement of disputes.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.3/L.5
29 July 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

Israel: draft articles on the Enforcement of Provisions on the Protection of Marine Environment

Article 1. Offences

Every State undertakes to make the discharge of pollutants into the sea an offence punishable by adequate penalties.

Article 2. Documentary Evidence

Every State undertakes to make suitable provisions for the admission by its courts of law of documentary evidence, submitted by competent authorities of another State, concerning the commission by ships operating under its flag of an offence in respect of discharge of pollutants into the sea.

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THIRD CONFERENCE ON THE LAW OF THE SEA

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A/CONF.62/C.3/L.6
31 July 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

Canada, Fiji, Ghana, Guyana, Iceland, India, Iran, New Zealand, Philippines and Spain: draft articles on zonal approach to the preservation of the marine environment

These draft articles do not necessarily represent the full or final position of the co-sponsors, are without prejudice to declared national positions, and do not imply withdrawal of the proposals submitted, individually or jointly, by some of the above-named States or substitution of such proposals or national positions by the present draft articles.

C-0795
74-20884

/...

I

States have the obligation to protect and preserve the marine environment.

II

1. States shall co-operate on a global basis and as appropriate on a regional basis, directly or through competent international organizations, global or regional, to formulate and elaborate treaties, rules, standards and recommended practices and procedures consistent with this Convention for the prevention of marine pollution, taking into account characteristic regional features, the economic capacity of developing countries and their need for economic development.

2. States with interests in the marine environment of a region or geographically common area should co-operate in formulating common policies and measures for the protection of such regions or areas. States should endeavour to act consistently with the objectives and provisions of such policies and measures.

III

1. States shall take all necessary measures to prevent pollution of the marine environment from any source, using for this purpose the best practicable means in accordance with their capabilities, individually or jointly, as appropriate, and according to their own environmental policies.

2. States shall take all necessary measures to ensure that activities under their jurisdiction or control do not cause damage to areas beyond their national jurisdiction, including damage to other States and their environment, by pollution of the marine environment.

3. The measures taken pursuant to these articles shall deal with all sources of pollution of the marine environment, whether air, land, marine, or any other sources. They shall include inter alia:

(a) In respect of land-based sources of pollution of the marine environment, including rivers, estuaries, pipelines and outfall structures, measures designed to minimize the release of noxious and harmful substances, especially persistent substances, into the marine environment, to the fullest possible extent;

(b) In respect of pollution from vessels, measures relating to the prevention of accidents, the safety of operations at sea and intentional or other discharges, including measures relating to the design, equipment, operation and maintenance of vessels, especially of those vessels engaged in the carriage of hazardous substances whose release into the marine environment, either accidentally or through normal operation of the vessel, would cause pollution of the marine environment;

(c) In respect of pollution from installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil, measures for the

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prevention of accidents and the safety of operations at sea, and especially measures related to the design, equipment, operation and maintenance of such installations and devices; and

(d) In respect of pollution from dumping by vessels, aircraft and fixed or floating platforms, measures for prohibiting or regulating such dumping.

IV

In taking measures to prevent marine pollution, States shall guard against the effect of transferring damage or hazard from one area to another.

V

Nothing in these articles shall derogate from the sovereign right of a State to exploit its own resources pursuant to its environmental policies and in accordance with its duty to protect and preserve the marine environment both in its own interests and in the interests of mankind as a whole.

VI

The coastal State has in and throughout its economic zone (hereinafter referred to as the "zone") the rights and duties specified in these articles for the purposes of protecting and preserving the marine environment and preventing and controlling pollution.

VII

1. Within the zone, the coastal State shall have jurisdiction, in accordance with these articles, to establish and adopt laws and regulations and to take administrative and other measures in respect of the activities of all persons, natural and juridical, vessels, installations and other entities for the purposes set out in article VI.

2. The coastal State shall have the right to enforce in the zone laws and regulations enacted in accordance with paragraph 1 of this article.

3. (a) In respect of pollution of the marine environment from land-based sources and from installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil, the laws and regulations of the coastal State shall take into account internationally agreed rules, standards and recommended practices and procedures.

(b) (i) In respect of ship-generated pollution, the laws and regulations of the coastal State shall conform to internationally agreed rules and standards.

(ii) Where internationally agreed rules and standards are not in existence or are inadequate to meet special circumstances, coastal States may adopt reasonable and non-discriminatory laws and regulations additional to or more stringent than the relevant internationally

/...

agreed rules and standards. However, coastal States may apply stricter design and construction standards to vessels navigating in their zones only in respect of waters where such stricter standards are rendered essential by exceptional hazards to navigation or the special vulnerability of the marine environment, in accordance with accepted scientific criteria. States which adopt measures in accordance with this subparagraph shall notify the competent international organization without delay, which shall notify all interested States about these measures.

VIII

The coastal State shall exercise its rights and perform its duties in the zone with regard to the preservation of the marine environment without undue interference with other legitimate uses of the sea, including, subject to the provisions of this Convention, the laying of cables and pipelines.

IX

In the zone, ships and aircraft of all States, whether coastal or not, shall enjoy freedom of navigation and overflight subject to the exercise by the coastal State of its rights within the zone, as provided for in this convention, with regard to the preservation of the marine environment.

(Further articles in elaboration of the zonal approach will be required, including provision for the peaceful settlement of disputes, special areas, intervention, liability, the relationship of these articles with other international conventions, and mechanisms for the establishment of rules and standards.)

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ON THE LAW OF THE SEA

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A/CONF.62/C.3/L.7
1 August 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

FEDERAL REPUBLIC OF GERMANY

Draft articles

ENFORCEMENT OF REGULATIONS CONCERNING THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST VESSEL-SOURCE POLLUTION

Article I

1. States shall ensure that ships flying their flag comply with regulations established in accordance with this Convention and shall issue for these ships certificates required or provided for in such regulations. They shall deny the right to fly their flag to ships which do not comply with such regulations.

2. A certificate issued by a State for a ship flying its flag in accordance with this Convention shall be accepted by other States and regarded for all purposes covered by this Convention as having the same validity as a certificate issued by them.

3. If a State has issued a certificate for a ship flying its flag which does not comply with the requirements of the regulations and such ship causes pollution of the marine environment, the issuing State shall be internationally responsible for damage to other States and their nationals resulting from the pollution incident and shall pay compensation accordingly, unless the pollution incident was not due to the failure to comply with the requirements.

Article II

1. A ship required to carry a certificate is subject, while in the ports, off-shore terminals or internal waters of a Contracting State, to inspection by the authorities of that State. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate.

2. If there are reasonable grounds for believing that the ship has violated discharge regulations established in accordance with this Convention, such State may also inspect the ship in order to ascertain whether it has violated such regulations.

condition of the ship or its equipment does not correspond substantially with the particulars of that certificate, or the ship has violated discharge regulations on the high seas, a report shall be forwarded to the flag State which shall take appropriate action, and to the competent international organization. If the inspection indicates that the ship has violated discharge regulations within the territorial sea or internal waters of the inspecting State, the authorities of that State may intitute judicial or administrative proceedings according to its national law.

Article III

1. If a ship does not carry a valid certificate as required by the regulations established in accordance with this Convention, States may deny such ship entry to their ports or off-shore terminals, or passage through their territorial sea. If there are reasonable grounds for believing that a ship does not carry a valid certificate and if, while in the territorial sea of a coastal State, it does not furnish information at the request of that State, as required under the regulations, the ship shall be deemed not to carry a valid certificate.

2. If there are reasonable grounds for believing that a ship in the territorial sea or internal waters of a coastal State has violated discharge regulations established in accordance with this Convention, the coastal State may, if necessary in order to ascertain whether the ship has violated the regulations, order a foreign merchant ship to stop and board it, and may take action, pursuant to article II, paragraph (3), against such ship.

Article IV

1. If substantial pollution, which may reasonably be expected to result in major harmful consequences to the marine environment, has occurred on the high seas in the vicinity of the territorial seas of coastal States, and if there are reasonable grounds for believing that a foreign merchant ship encountered near the site of the pollution incident has violated discharge regulations established in accordance with this Convention, such States may, if necessary in order to ascertain whether the ship has violated the regulations, order the ship to stop and board it.

2. If the inspection indicates that the ship has violated discharge regulations, a report shall be forwarded to the flag State, which shall take appropriate action, and to the competent international organization.

Article V

1. All possible efforts shall be made to ensure that a ship is not unduly detained or delayed. For this purpose States shall, inter alia, co-operate in the development and implementation of regulations and procedures to render unnecessary the stoppage or boarding, as provided for in the above articles, of a ship proceeding en route.

/...

2. Measures taken pursuant to the above articles must not endanger ships, interfere with navigation or other legitimate uses of the sea, or create hazards to the marine environment. Ships inspected on the high seas or in innocent passage through the territorial sea must not be diverted, taken into port or arrested. If a State is entitled to institute judicial or administrative proceedings against a foreign ship, such ship may avoid arrest by bonding.

3. If a State, pursuant to article III, denies a foreign ship entry to its ports or off-shore terminals or passage through its territorial sea, or takes any action against such ship on account of a violation of discharge regulations, the State shall immediately inform the consul or diplomatic representative of the flag State.

4. If a ship is unduly detained or delayed, it shall be entitled to compensation for any loss or damage suffered.

5. Measures taken pursuant to the above articles may discriminate neither against nor among foreign ships. Regarding ships of States which are not Parties to this Convention, Contracting States shall apply the provisions of this Convention, in accordance with international law, in such a manner as to ensure that such ships are not accorded more favourable treatment.

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A/CONF.62/C.3/L.10
6 August 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

Liberia: amendments to the draft articles on the enforcement of the provisions for the protection of the marine environment contained in document A/CONF.62/C.3/L.4

Page 3

1. The heading of section F should be changed to read

F. Uniform judicial enforcement

2. The following new paragraph should be added under article 8:

Each port State shall undertake to ensure, by national legislation if necessary, that its courts of competent jurisdiction may entertain actions brought by another contracting State for the purpose of enforcing such judgements obtained in accordance with the terms of this Convention.

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A/CONF.62/C.3/L.18
23 August 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

NORWAY

Item 12: Preservation of the Marine Environment

Working Paper

The following is suggested as a tentative draft provision on the maintenance of the natural state of the marine environment:

1. States shall not undertake or permit activities which may cause significant and extensive harmful changes in the natural state of the marine environment by the deliberate introduction thereinto or the transfer from one area to another thereof of species alien or new thereto. If the effects of any proposed activity could give rise to uncertainty in this respect, the State concerned shall in any event consult with interested States and appropriate international organizations prior to undertaking or permitting any such activity.

States shall take appropriate measures to guard against the accidental introduction or transfer of alien or new species, and to restore the previously existing state of the marine environment in cases where a disturbance has occurred due to any introduction or transfer of alien or new species.

2. This article shall be without prejudice to the application of the provisions of this Convention relating to the prevention of the pollution of the marine environment.

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22 August 1974
ENGLISH
ORIGINAL: SPANISH

THIRD COMMITTEE

Note by the Chairman of the informal sessions of the Third Committee on item 12 (Preservation of the Marine Environment) addressed to the Chairman of the Third Committee

Mr. Chairman:

In my capacity as Chairman of the informal sessions of the Third Committee, organized to consider item 12 entitled "Preservation of the Marine Environment", I have the honour to inform you as follows:

There were 11 plenary meetings of the informal sessions on item 12 held between 22 July and 22 August. In addition, there were 11 meetings of an informal drafting and negotiating group open to participation by all delegations, which was established for the purpose of working out draft articles acceptable to all delegations or to reduce the number of alternatives in those cases where it was impossible to arrive at a single text. I was also Chairman of that group.

The work of the informal sessions was based on all the formal proposals and informal working papers submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (see document A/9021, vol. I, pp. 86-102 and 106-107 and see also document CRP/MP/1 and Corr.1). The informal sessions also considered formal proposals submitted by various delegations to the Third Committee of the Conference (A/CONF.62/C.3/L.2, L.4, L.5, L.6, L.7 and L.10).

The draft articles prepared by the Sea-Bed Committee were reviewed, in accordance with the programme agreed upon during the organization of the work of the informal sessions. In the course of that review, various delegations submitted amendments, additions or new texts. Those amendments, additions or new texts were also taken as a basis for the work and were issued, so that they could be considered, in a series of informal working papers (CRP/MP Nos. 2-9, Rev.1 and 11-12, Rev.1).

In the light of the documentation mentioned above, the drafting and negotiating group prepared and transmitted to the informal plenary sessions for consideration an informal working paper (CRP/MP/14/Rev.1) containing new draft articles. At its ... meeting on 22 August 1974, the informal sessions decided to transmit to the Third Committee the new draft articles, which were the result of the deliberations of the informal sessions on item 12 and of the work of the drafting and negotiating group. Those drafts are contained in document A/CONF.62/C.3/L.15. Those texts to which no reservations have been made, may be regarded as texts approved at the level of the informal sessions, without prejudice to the decisions on them which may be adopted by the Third Committee.

In connexion with the crucial item identified by the informal sessions as "Standards, jurisdiction and enforcement", the informal sessions did not have time to work out single texts or at least to reduce the alternatives reproduced in document A/9021 and document CRP/MP/9 and Add.1 and Corr.1. The informal sessions agreed on the following method of work, based on the various sources of pollution, which will be very useful for future work (see document CRP/MP/10 and Corr.1)*.

Method of work for consideration of questions relating to standards, jurisdiction and enforcement

1. Pollution from land-based sources.

2. Marine pollution from activities concerning exploration and exploitation of the sea-bed within the areas of national jurisdiction.

3. Marine pollution from activities concerning exploration and exploitation of the sea-bed beyond the areas of national jurisdiction.

4. Pollution from vessels.

- flag State
- coastal State
- port State

5. Marine pollution from the atmosphere.

6. Pollution from dumping of wastes at sea.

- flag State
- coastal State
- port State

7. Other sources of marine pollution.

The informal sessions could not undertake consideration of all the items contained in the proposals formally submitted to the Sea-Bed Committee and the Conference and they will be considered at a later stage.

I take this opportunity to reiterate the assurance of my highest consideration.

(Signed) José L. VALLARTA

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* See also document CRP/MP/13.

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22 August 1974

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THIRD COMMITTEE

Results of consideration of proposals and amendments relating to the preservation of the marine environment

The purpose of this paper is to present in a single document the common texts which have resulted from the work of the Informal Sessions on Item 12 and the efforts of the drafting and negotiating group. Additional common texts which may be prepared after this date will be reproduced in addenda to the present document. The Informal Sessions will thus be able to consider the results of the work with reference to a comprehensive single document.

A reference in parenthesis in each case indicates the basic texts and amendments thereto, which constituted the background elements of the draft treaty articles reproduced in this paper.

The presentation of the common texts follows the order of their consideration by the Informal Sessions except where the drafting and negotiating group expressed a different opinion on the matter.

I. Draft article on basic obligations (A/9021, p. 86, WG.2/Paper No. 3; and CRP/MP/2)

"States have the obligation to protect and preserve the marine environment, (in accordance with the provisions of these articles.)" 1/

II. Draft article on the right of States to exploit their own natural resources (A/9021, p. 89, WG.2/Paper No. 7 and CRP/MP/4)

"Nothing in this Convention shall derogate from the sovereign right of a State to exploit its own natural resources pursuant to its environmental policies and programmes for economic development and in accordance with its duty to protect and preserve the marine environment." 2/

1/ The words in parentheses are to be reconsidered in the light of the suggestions recorded in document CRP/MP/2, when the other articles dealing with item 12 have been completed.

2/ Some delegations thought it necessary to include a provision reserving the rights of States to exploit their own resources pursuant to their environmental policies. Some delegations opposed the inclusion of this article in this Convention.

III. Draft article on particular obligations (A/9021, pp.86-88, WG.2/Paper No. 8/Add.2, and CRP/MP/3, Corr.1 and Add.1) 3/

"1. "States shall take all necessary measures to prevent, reduce and control pollution of the marine environment from any source using for this purpose the best practicable means at their disposal and in accordance with their capabilities, individually or jointly, as appropriate, and they shall endeavour to harmonize their policies in this connexion."

"2. "States shall fulfil these obligations in accordance with their national environmental policies and their duty to protect and preserve the marine environment." 4/

"3. (Alternative I)

"States shall take all necessary measures to ensure that activities under their jurisdiction or control do not cause damage 5/ to areas beyond their national jurisdiction including damage 5/ to other States and their environment by pollution of the marine environment."

(Alternative II)

"States shall adopt all necessary measures requiring that activities under their jurisdiction or control are so conducted that such activities do not cause damage 5/ to areas beyond their national jurisdiction including damage 5/ to other States and their environment by pollution of the marine environment."

(Alternative III)

"In particular, States shall take all necessary measures to ensure that marine pollution 6/ arising from activities under their jurisdiction or control does not spread outside their jurisdiction."

3/ Paragraph 3 of this article as it appears in document A/9021, p. 88, was deferred for later consideration in connexion with the Item on Standards, Jurisdiction and Enforcement. The view was expressed that such a paragraph should be included in this article.

4/ It was decided to record this text here for future study. Some delegations opposed this article.

5/ In the view of some delegations the word "damage" as used in these formulations includes "hazard".

6/ Some delegations were of the view that a definition of marine pollution was necessary and suggested the following definition:

"Pollution of the marine environment means: the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities."

/...

"4. The measures taken pursuant to these articles shall deal with all sources whatsoever of pollution of the marine environment. These measures shall include, inter alia:

"(a) those designed to minimize to the fullest possible extent 7/ 8/ the release of toxic and harmful 9/ substances, especially those which are persistent:

(i) from land-based sources;

(ii) from or through the atmosphere;

(iii) by dumping.

"(b) those designed to minimize to the fullest possible extent 7/ 8/ pollution from vessels, 10/ in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation 11/ and manning of vessels;

"(c) those designed to minimize to the fullest possible extent 7/ 8/ pollution from installations and devices used in the exploration or exploitation of the natural resources of the sea-bed and subsoil, in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

"(d) those designed to minimize to the fullest possible extent 7/ 8/ pollution from all other installations and devices operating in the marine environment, in particular for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices."

"5. In taking measures to prevent pollution of the marine environment States shall have due regard to the legitimate uses of the marine environment, which are not incompatible with the provisions of this Convention 12/ and shall refrain from unjustifiable interference with such uses."

7/ It was suggested that the words "to the fullest possible extent" be deleted.

8/ It was suggested that the words "to the fullest possible extent" be removed from subparagraphs (a), (b), (c) and (d) and inserted as appropriate in the introduction of paragraph (4).

9/ The view was expressed that the words "toxic and harmful" be replaced by the words "harmful or noxious".

10/ Some delegations considered that the words "arising from their operations" should follow the word "vessels".

11/ A view was expressed that the inclusion of the word "operation" was inappropriate in this subparagraph.

12/ Some delegations considered that the words "which are not incompatible with the provisions of this Convention" were not necessary. The delegation supporting the inclusion of these words expressed the view that this question could be considered in the Drafting Committee in the light of other provisions of this Convention as a whole.

IV. Draft article concerning the obligation not to transfer pollution from one area to another (A/9021, p. 88, WG.2/Paper No. 9 and CRP/MP/4)

"In taking measures to prevent or control marine pollution States shall guard against the effect of merely transferring, directly or indirectly, damage or hazard from one area to another or from one type of pollution to another."

V. Draft article on global and regional co-operation (A/9021, p. 81, WG.2/Papers No. 10 and No. 10/Add.1 and CRP/MP/5)

(a) 13/

(b) "A State which becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations."

(c) "In the cases referred to in paragraph (b) above, States in the area affected, in accordance with their capabilities, and the competent international organizations, shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. Towards that end, States shall jointly promote and develop contingency plans for responding to pollution incidents in the marine environment."

(d) "States shall co-operate directly or through competent international organizations for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and international programmes to acquire knowledge for the assessment of the nature and extent of pollution and the pathways and risks of, exposures to and the remedies for pollution."

(e) "In the light of the information and data acquired pursuant to paragraph (d) above, States shall co-operate directly or through competent international organizations in working out appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention of marine pollution."

(f) 13/

VI. Draft article on technical assistance (A/9021, p. 92, WG.2/Paper No. 12; and CRP/MP/6)

"1. States shall directly or through competent international or regional organizations:

13/ Paragraphs (a) and (f) of this draft article, as they appear in document A/9021, p. 91, were deferred for later consideration in connexion with the Item on Standards, Jurisdiction and Enforcement.

/...

(a) promote programmes of scientific, educational, technical and other assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution. Such assistance shall include, inter alia:

(i) training of scientific and technical personnel;

(ii) facilitation of their participation in relevant international programmes;

(iii) supply of necessary equipment and facilities;

(iv) enhancing the capacity of developing countries to manufacture such equipment;

(v) development of facilities for and advice on research, monitoring, educational and other programmes.

(b) provide appropriate assistance, in particular to developing countries, for the minimization of the effects of major incidents which may cause serious pollution in the marine environment."

"2. Developing States shall, for purposes of the prevention of marine pollution the minimization of its effects, be granted preference in:

(a) the allocation of appropriate funds and technical assistance facilities of international organizations, and

(b) the utilization of their specialized services."

VII. (Alternative A)

Draft article on the relevance of economic factors in considering whether States have discharged their obligations (A/9021, pp. 92-93, WG.2/Paper No. 11)

"In considering whether a State has discharged its obligations under this Convention in respect of preventing, reducing and controlling marine pollution, due regard must be paid to all relevant factors including in particular the economic and financial ability of a State to provide the resources necessary for the discharge of such obligations and the stage of economic development of the State."

(Alternative B)

Draft article concerning economic factors in respect of land-based sources of marine pollution (A/9021, pp. 92-93, WG.2/Paper No. 11)

"In considering whether a State has discharged its obligations under this Convention in respect to land-based sources of marine pollution, due regard must be paid to all relevant factors including in particular the economic and financial ability of a State to provide the resources necessary for the discharge of such obligations and the stage of economic development of the State."

(Alternative C)

Delete this draft article.

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25 July 1974

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THIRD COMMITTEE

NOTE BY THE SECRETARIAT

Attached is a report, prepared by the Secretariat of the Third United Nations Conference on the Law of the Sea, on problems of acquisition and transfer of marine technology. The report, which is preliminary, is intended to provide some basic information for the use of delegations. It was prepared in compliance with a request made in Sub-Committee III of the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction.

PROBLEMS OF ACQUISITION AND TRANSFER OF MARINE TECHNOLOGY

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PREFACE

1. The close relationship between marine technology capability and the benefits to be derived from marine resources and the use of the ocean space was recognized by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (hereinafter referred to as the Sea-Bed Committee) since its inception. Thus when it was requested by General Assembly resolution 2750 C (XXV) to prepare "a list of subjects and issues relating to the law of the sea" to be dealt with by the Third United Nations Conference on the Law of the Sea, the Committee included "Development and transfer of technology" in the list. Four aspects were singled out by the Committee for consideration:

(a) development of technological capabilities of developing countries;

(b) sharing of knowledge and technology between developed and developing countries;

(c) training of personnel from developing countries;

(d) transfer of technology to developing countries.

2. While the Sea-Bed Committee itself did not discuss the question of transfer of marine technology, it was the concern of both Sub-Committees I and III. In Sub-Committee I, the question was discussed in connexion with the international régime by its working group, which completed a second reading of the four alternative texts on the subject 1/ at the end of its 1973 session. Sub-Committee III established a working group in 1973 to prepare draft treaty articles on scientific research and transfer of technology. The group, however, did not initiate consideration of the transfer of technology. Sub-Committee III itself held a debate on some of the general issues at its July/August session in 1973. 2/

3. During the discussions on this question, several representatives expressed the view that a background paper on the subject might facilitate consideration by the Conference. 3/ A suggestion 4/ was thus made that the Conference be provided with a study which would explore and clarify some of the basic issues and would recommend certain practical measures to promote the transfer of marine technology. The present study represents an effort in this direction and is guided by the views expressed and issues discussed during the Sea-Bed Committee sessions. But since only a few meetings were held on this subject and less than 12 delegations participated in the debate, this source of material is rather limited. 5/

1/ Report of the Sea-Bed Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction. General Assembly Official Records: Twenty-eighth Session, Supplement No. XXI (A/9021), Vol. II, p. 62.

2/ The discussion is summarized in its report, ibid. Vol. I, pp. 82-84.

3/ See Summary Records A/AC.138/SC.III/SR.41-44.

4/ Ibid.

5/ Most of the discussions are found in summary records of A/AC.138/SC.I/SR.67, pp. 53-54 and A/AC.138/SC.III/SR.41-44, and 49.

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4. It may be recalled that during the discussion, different views were expressed on: whether the inquiry should deal with the technology associated only with activities conducted on the sea-bed, or with activities connected with marine space as a whole; whether scientific and research information should be included; and whether technology transfer should relate to all countries needing such technology regardless of their development status, even though the problems involved may be different for the developed countries. Subsequent discussions in fact covered a very wide range of interests and indicated a preference for a broad, general approach. 1/ Taking into account this indication of preference and the fact that the concern of the Conference is a comprehensive one and that the interests of the participants are very diversified, this paper takes a broad, general view of the subject matter. While the study accords special attention to the problems of the developing countries, it also takes into account problems of the developed countries in this regard, since even among the latter, the need for certain specific marine technology exists and this emphasizes the general interests in the subject.

5. The question of "transfer of technology" in general has received considerable attention in recent years. At the recent sixth special session for example, the General Assembly adopted a programme of action on the establishment of a new international economic order, in which "transfer of technology" formed a part of the programme. In part IV of the programme, it called for, inter alia, the promotion of international co-operation in research and development in exploration and exploitation, conservation and the legitimate utilization of natural resources and all sources of energy. 2/ Several United Nations organs and bodies, including UNCTAD, UNIDO and UNITAR, have undertaken studies on the subject. Their main emphasis, however, has been placed on methodology and guidelines, and such issues as patents, cost-benefit analysis and restrictive business practices. For example, UNCTAD's main concern in this respect is to bring about an improvement in the contractual terms and conditions under which technology in general is transferred to developing countries. 3/ UNITAR has conducted a number of

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1/ See A/AC.138/SC.III/SR.41, 43 and 44.

2/ See General Assembly resolution 3202 (S-VI), Part IV. According to the programme, all efforts should be made: (a) to formulate an international code of conduct for the transfer of technology corresponding to needs and conditions prevalent in developing countries, (b) to give access on improved terms to modern technology and to adapt that technology to specific economic, social and ecological conditions and varying stages of development in developing countries, (c) to expand significantly the assistance from developed to developing countries in research and development programmes and in the creation of suitable indigenous technology, (d) to adapt commercial practices governing transfer of technology to the requirements of the developing countries and to prevent abuse of the rights of sellers.

3/ Among numerous publications of UNCTAD, the following may be cited: "Guidelines for the study of the transfer of technology to developing countries", TD/B/AC.11/9. United Nations, New York, 1972, (Sales No. E.72.II.D.19). "The channels and mechanisms for the transfer of technology from developed to developing countries", TD/B/AC.11/5; "Methodology for studying the transfer of technology, major issues arising from the transfer of technology, progress in implementing Conference Resolution 39 (III)", TD/B/AC.11/L.8; "Restrictive business practices, report by the UNCTAD Secretariat", TD/B/C.2/54 and Corr.1 and Add.1 and 2 and TD/B/C.93 and Add.1.

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empirical pilot case studies on the basis of some selected countries in different regions and in such sectors as the semiconductor, petrochemical and pharmaceutical industries. 1/

6. Thus far, no study has been undertaken from the standpoint of "marine technology". As will be seen, marine technology possesses characteristics of its own and raises problems requiring separate investigation. Moreover, transfer of marine technology must be examined in concrete terms in the light of the specific objectives intended to achieve.

7. Several specialized agencies, e.g. IMCO, FAO, WHO and UNESCO, have dealt with certain aspects of marine technology (aquaculture, navigation, fishing, drugs, oceanographic research, etc.). The process of transfer is carried out largely through such means as seminars, exchange of information, training of personnel and provision of experts. Important gaps 2/ are revealed when the existing arrangements within the United Nations system are compared with the spread of marine activities as a whole (see Table I below) and the possible actions that may be taken to further the transfer of marine technology.

1/ These case studies include: "Transfer of technology from Japan to developing countries", by Terutomo Ozawa; "International transfer of automotive technology to developing countries", by Jack Baranson; "The transfer of technology and the factor proportions problem: the Philippines and Mexico", by R. Hal Mason; "The transfer of technology: economics of offshore assembly, the case of semi-conductor industry", by Y. S. Chang; "The international transfer of technology in the establishment of the petrochemical industry in developing countries", by Robert B. Stobauch; "The international transfer of commercial technology to developing countries", by Walter A. Chudson; "Technology transfer in the pharmaceutical industry", by Lawrence H. Watzel; "Soviet experience in transfer of technology to industrially less developed countries", by A. N. Bykov with M. P. Strepetova and A. V. Letenko; UNITAR Research Reports Nos. 7, 8, 10, 11, 12, 13, 14 and 15 respectively.

2/ See paragraphs 59-60 below.

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I. INTRODUCTION

1. The transfer of marine technology is a means of enhancing the capability of technologically deficient countries to carry out the exploration and exploitation of marine resources, and the uses of the ocean space. Marine technology transfer therefore is not an abstract concept but rather a process intended to achieve specific objectives. The design of an effective process of transfer depends, however, on the specific industry or activity for which technology is sought and on the existing local capability.

2. What is meant by "marine technology"? For all practical purposes, "Marine technology" may be understood as the body of knowledge and hardware needed for the uses of the ocean space and for surveying and developing marine resources. In its general sense, it includes such components as: technical information, designs, know-how, engineering, hardware, processing technology, and management. It encompasses the equipment and technical know-how employed in the traditional marine industries such as naval architecture and shipbuilding, fishing or coastal development, as well as in the newer activities of exploration and exploitation of deep sea-bed minerals and hydrocarbons. Table I represents a general indication of the spread of activities under consideration. It will be noted that no attempt is made to establish a rigid distinction between "marine", "coastal" or "estuarine" activities.

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Table I - Marine Activities

I. Exploitation of marine resources	A.	living resources	a. fisheries (e.g. fish and living organisms of the sedentary species) and plants
			b. aquaculture (e.g. oysters, sea weeds, shrimp, salmon, etc.)
			c. extraction of drugs
	B.	mineral resources	a. deposits within bedrock (e.g. oil, gas, sulphur, coal)
			b. surficial and placer deposits (e.g. sand and gravel, phosphorite, iron ores, manganese nodules, tin, gold, etc.)
			c. extraction of dissolved chemicals (e.g. salt, magnesium compounds)
			d. desalination
II. Uses of the ocean space	A.	off-shore structures	a. structures supporting an exploitation process (pipelines, storage tanks, mooring and loading buoys, terminals, etc.)
			b. structures which can conveniently locate facilities off-shore (artificial islands, floating airports, floating (nuclear) power stations under sea habitat, etc.)
			c. structures crossing stretches of water (bridges, pipelines, cables, tunnels, etc.)
	B.	transport	a. ports
			b. tankers
			c. bulk carriers
			d. conventional and container ships
	C.	generation of energy	a. tides
			b. waves
			c. ocean currents
			d. thermal gradients
	D.	others	a. recreation
			b. land reclamation
			c. waste disposal
			d. marine research

3. The development of marine activities requires considerable technical support, both from the marine sectors and from a large number of non-marine technologies, for instance:

A. Basic research in pure and applied sciences: e.g. an understanding of fluid mechanics is essential in designing on-shore and off-shore structures subject to wave and current forces and for the hydraulic lifting of surficial deposits; underwater acoustics is important in the location and identification of mineral deposits and in fishing; knowledge of corrosion processes is essential for the preservation of all metallic objects placed in the oceans, be they ships, off-shore structures or aquaculture enclosures; meteorology and hydrology are necessary for coastal area development (e.g. off-shore terminals) and so on.

B. Basic technological design, development and other activities: e.g. positioning, platforms and surveys are basic to non-living resource exploration; most marine activities involve aspects of operation, maintenance, design and construction relating to mechanical, electronic and civil engineering.

C. Technical hardware and manpower: the need for expertise and equipment vary according to the activity (e.g. manganese nodule mining, aquaculture, fishing or shipbuilding), the physical conditions of the environment (e.g. depth of water, nature of sea-bed, waves, weather), and the technical and financial capability of the users. In general, the exploitation of a marine resource involves three main stages: prospecting, exploration, and production, and each stage again requires different expertise and equipment. The mining of manganese nodules serves as an example. Mining equipment design varies according to:

(i) type of sea floor sediment and associated engineering properties;

(ii) size of nodules and variation of nodule size;

(iii) nodule concentration and variation of concentration;

(iv) nodule grade and variation of grade;

(v) average and maximum water depth encountered;

(vi) basic features of sea floor topography;

(vii) seasonal sea state and weather; prevailing wind and sea direction;

(viii) required ship endurance, distance from shore facilities for resupply and crew relief;

(ix) daily production rates;

(x) ship or platform manoeuverability and navigation requirements to execute mining plan and launch and retrieve system;

(xi) marine ecology requirements.

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4. Most marine activities have an overriding demand for power, navigation, survey and data collection on the one hand, and for management and training on the other. A successful operation of marine activities requires a critical mass of properly trained manpower, both technicians and scientists, and indigenous facilities for the education and training of supporting personnel.

5. The term "transfer of marine technology" is often subject to different interpretations. In some instances it is used to describe the flow of scientific information, technical assistance programmes or the training of personnel. In others, the emphasis is on the interactions of related disciplines: e.g. aquaculture benefits from scientific advances in fish genetics; deep-sea nodule mining benefits from understanding the ocean mineral precipitation process. Some also refer to the transfer of techniques from one field to another. Thus, for example, much has been said about the applicability of space technology to ocean space: 1/ meteorologic satellites, continuously observing global weather patterns, obtain critical forecasting data from unpopulated oceanic regions; remote sensing satellites survey marine resources. Still others use the term to mean the conversion of technologies developed for military purposes to peaceful uses. 2/

6. For the purpose of this paper, transfer of marine technology is viewed as (i) a process of making available to the countries needing it the relevant technology for the better use of marine resources and environment, and (ii) as a process of implanting such technology in the recipient country. Accordingly, two aspects are involved: acquisition of marine technology and the application of such technology by the recipient. The aim of marine technology transfer is therefore to get a specific ocean industry working in the recipient country, and concurrently to enable the country to achieve a certain amount of technological autonomy in terms of skill, know-how and trained personnel so that it can make its own technological decisions with full awareness of what is available.

7. An important component of any programme of technology transfer is the determination of the "appropriate technology". Very often the most modern equipment, the most sophisticated techniques or the most up-to-date expert are not necessarily the best choice for the needs of some developing countries. Perhaps a simpler technology might be more appropriate for the scale of operation envisaged or for the level of skills of the local labour force.

1/ See, for example, J. G. Wenzel, Ocean Technology Transfer, in Proceedings, Marine industries problems and opportunities. Marine Technology Society, Ninth Annual Conference, 1973, pp. 141-146.

2/ See, for example, E. Clausner, Navy's undersea technology programme: Marine Industries the Beneficiary, ibid., pp. 133-140.

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II. METHODS OF ACQUISITION AND TRANSFER OF MARINE TECHNOLOGY

8. Methods of acquisition and transfer of marine technology are closely associated with the type of capability that the recipient country desires to acquire. In some cases, the technology being considered may be available in a variety of forms, differing greatly for example in the technology-capital-labour ratio. This is the case, for example, with fishing, aquaculture or salt extraction. In other cases, such as oil and gas production or power generation, there is much less choice of technology; the characteristics and location of the marine resources may, to a large extent, fix the technology which must be used. For example, depth of water, weather, distance from base and nature of the sea-bed will primarily determine the type of technology required. Some choices remain - as for instance in the transportation of oil and gas ashore, whether by pipeline or tanker.

9. Once the type of technology required is decided, three basic methods could be used to acquire the technology: (a) develop it locally without outside assistance; (b) develop it locally, but with some outside help, whether in terms of information, expertise or equipment, or (c) acquire it completely from abroad. The advantages and disadvantages of each method are obvious: the degree of local control is in proportion to the amount of local contribution: the greater the external contribution is, the less is the likelihood of local control. This could further be illustrated by using some of the variant forms of the second and third methods:

(a) develop required capability locally, making use only of freely available information and expertise;

(b) develop it locally, using some hired expertise from abroad;

(c) purchase the necessary capabilities in manufacturing and/or research and/or training, then develop equipment and expertise locally;

(d) purchase or lease some equipment and expertise from abroad, develop others locally;

(e) purchase or lease most or all of equipment and expertise from abroad;

(f) exchange a share in the resource to be exploited for equipment and expenditure;

(g) lease rights to exploit the resources to foreign capital and technology.

10. The decision to choose any of these variants depends on a number of factors, including the national policy, nature of the technology and the technical capability of the country. These considerations will be further illustrated.

11. Variants (a) to (d) would provide greater local control, whereas the employment of variants (e) to (g) per se, which usually involve foreign investment, licensing agreement, or co-operative ventures, would result in very little local control. Although variants (e) to (g) may be effective ways to physically acquire equipment and know-how, some safeguarding and phasing-out policies would be necessary to effect the transfer of the technology and also to protect national interests. These may include the requirement of

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the supplier to utilize local material and manpower and to organize training programmes for local staff to ensure a gradual and systematic replacement of the external personnel in expertise, technical operation and management. The implementation of such policies could be strengthened by gradually restricting or reducing foreign shareholding in or profit-making from the enterprise.

12. Technology is generally bought and sold in the world market in the form of information (e.g. designs), capital goods (e.g. equipment and machinery), or skilled manpower, and such components are generally subject to proprietary rights and are sold under restrictive conditions. The more modern and sophisticated the technology - as is the case with much marine technology - the more likely it is that the devices and processes are patented by individuals or corporations which are often multinational in scope. 1/ There is a high chance therefore that certain technological components will have to be obtained by foreign investment or a co-operative venture. On the other hand, if the recipient has partial familiarity with the specific technology required and has the technical and industrial capability to apply it, the development can often be promoted by using some hired expertise or purchasing or leasing some equipment from abroad. For example, the need for shrimp processing techniques in certain Latin American countries could probably be met by the services of technical advisers, licensing or importation of equipments, whereas the need for fish preservation techniques in the Bay of Bengal might require further research and the adaptation of technology which could be applied economically in the area; in the North Sea, a capabilty in offshore structure may be developed from a previous familiarity with onshore construction methods.

13. If it is decided that the technology required should be acquired from abroad, various arrangements can be made: (a) a package deal directly from a foreign supplier, (b) separately item by item, or (c) partly by package and partly by individual acquisition.

14. (a) If the establishment of an industrial project involves recently developed or sophisticated machinery and technical know-how, as in manganese nodule mining, there is a strong tendency that the project would entail a package deal involving licence contract, equity control or majority participation. The reasons are not difficult to find. Such technologies are likely to be an important source of monopolistic advantage and are the source of bargaining power for the supplier. They may also represent a large recent investment which has yet to be recouped. Suppliers possessing such technologies may wish to maintain a considerable measure of control over the operation and large companies carrying on activities on an international scale are often anxious to have such control. Even in some cases where the technology involved is not recent or sophisticated, because of the lack of appropriate technical infrastructure and managerial skill in the recipient country, the recipient may wish to obtain a package deal, hoping thereby to minimize the risk of an unsuccessful operation.

15. Under this package arrangement, the foreign supplier would provide the various elements of technology as a package and, if necessary, take upon itself to subcontract the supply of the various elements of technical knowledge needed.

1/ See also paragraph 27, foot-note thereto.

16. Consider an off-shore oil drilling project for example: a foreign entrepreneur - usually an oil company acting in the capacity of an operator - would be given the responsibility for the whole process from geophysical survey to production, and from obtaining the machinery and equipment to managing the new enterprise. All the technical know-how and hardware required at every stage and phase of the project would be provided through the foreign entrepreneur.

17. This kind of arrangement often involves investment by a foreign enterprise which may establish in the recipient country a subsidiary or affiliate with varying degrees of autonomy. The recipient usually has little direct control over the operation but can become involved in the activities by requiring the foreign operator to use local services, equipment and manpower whenever technically and economically possible.

18. (b) On the other hand, a marine industrial project could be established through, for example, a public sector enterprise which could acquire on the most advantageous terms the elements of technology directly from the sources of supply. Public enterprise, as the name suggests, is designed for the maximum participation of the recipient. But an effective arrangement presupposes both the availability of finance and an appropriate technological capability and infrastructure.

19. (c) In reality, many projects are carried out through various forms of co-operative ventures in which the public and private sectors of the technology supplier and the recipient participate in varying degrees in the provision of skills, machinery, capital and in management control. Often, some of the elements are acquired as a package and others individually from the sources of supply. Thus, in a project for coastal area development involving construction of off-shore terminals, a consultant agent from country "A" may be contracted to acquire as a package the critical information on bottom topography, conditions of wind, waves, tides and subsurface currents of the coast, whereas an engineering firm from country "B" may be engaged to design and construct the terminals using mostly local manpower and materials. At the same time, the project may use United Nations technical assistance for the training of management personnel. In any civil engineering contract such as the example above, and in many other situations, it would be common practice for the country concerned to appoint a third party (e.g. an overseas consultant) to act on its behalf in managing and overseeing the contract. This again provides some measure of protection to a country not able to make its own technological assessments.

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III. OBSTACLES AND PROBLEMS OF ACQUISITION AND TRANSFER OF MARINE TECHNOLOGY

20. Although many marine activities such as fishing and transport have long histories, further development and better application remain a priority even among the technologically more advanced countries. Certain uses (e.g. waste disposal) have only quite recently assumed importance, others, such as desalination are still in the development stage, and activities such as off-shore drilling are being modified to take them into deeper water and more extreme environments. Still others, such as deep-sea mining, are new activities born of greater scientific knowledge and modern technological advances. But with very few exceptions, activities in ocean space have expanded considerably in recent years and the value of marine resources and uses has increased as a consequence. Gaps and inadequacies are not uncommon in marine technology, though the extent of the deficiency may vary from one industry to another. 1/ The need for marine technology also exists even among the developed countries, particularly in those more recently emerged activities just mentioned. 2/ There is therefore a need to promote the development of marine technology in general.

21. Since much equipment and machinery has been designed for use under certain conditions, and the application of equipment and know-how is affected by the environment in which it is applied, it cannot be assumed that equipment which was developed in one area can be effectively applied in another area without adaptation. For example, drilling rigs and off-shore structures designed for use in the Gulf of Mexico are inappropriate to operate in the hostile environment of the North Sea. It may be even less than ideal for use in the different economic, social, technical, physical and other conditions in a developing country. These factors increase the difficulties in marine technology transfer.

22. Marine industries, as shown here earlier, 3/ cover a very wide range of activities. In so far as transfer of the relevant technologies is concerned, different marine industries involve different problems depending on the nature and characteristics of the industry. Generally speaking, technology requirement becomes more stringent, complex and demanding as water depth increases and as the activity extends farther from shore. Thus, deep-sea mining of manganese nodules involves far more sophisticated equipment and technical knowledge than near-shore sand and gravel extraction; pelagic fishing requires larger and more advanced facilities than coastal fishing. As technology becomes more sophisticated, the operation also becomes more capital-intensive. This is a factor which must be duly recognized in selecting marine industries for development.

1/ See D. E. Kash, et. al. Energy under the Oceans; a technology assessment of outer continental shelf oil and gas operations, University of Oklahoma Press 1973, pp. 114-136; Wang and Cruickshank, "Technologic gaps in exploration and exploitation of sub-sea mineral resources", Offshore Technology Conference, Houston, 1969, pp. 85-98.

2/ See for example J. W. Pendered and R. E. Taylor, "Education for the Offshore Industry in Europe", in 1974 Offshore Technology Conference, preprints Vol. 1, pp. 513-521.

3/ See table I, paragraph 2 above.

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23. On the other hand, within each marine industry there are different approaches to development, and different levels of technology can be applied. It is not always possible to say which might produce the best results, though some methods are more suitable than others in certain situations. In fish-farming, for example, completely enclosed systems used in some countries for the cultivation of plaice are capital-intensive and therefore most suitable for industrialized countries; on the other hand, systems for fertilizing coastal water or for farming in lagoons or coastal waters with simple enclosures involving only moderate investment but considerable labour may be suitable for labour-intensive economies.

24. Certain marine activities require not only advanced technology and the expertise of several disciplines but also large and long-term investment, with returns delayed by several years. For example, surveys of manganese nodules require expertise in several disciplines and the use of very sophisticated instruments to obtain accurate records of the ship's position when photographs or samples are taken. At the production stage, it has been reported that the construction of a commercial scale nodule mining system and metallurgical plant could amount to more than $200 million. 1/ A self-elevating, jack-up type of off-shore drilling platform designed to operate in water depths up to 250 metres under hurricane conditions would cost $US 25 million (if built in the United States). 2/ Daily costs for operating and supporting one of the new semi-submersible rigs total about $50,000. 3/

25. On the other hand, certain uses and activities such as sand dredging or construction of off-shore terminals are comparatively speaking, less capital-intensive and could be achieved in many cases with an intermediate level of technology.

26. A successful transfer presupposes that the recipient has the capability to determine what is needed and to apply subsequently the technology acquired. These are questions of selection and application. So far as selection is concerned, the recipient needs to determine, as mentioned earlier, the nature and extent of its resources and, based on this, the kind of marine industry that it intends to develop (e.g. off-shore gas), to identify the priority areas where specific technologies are needed (e.g. pipe installation) and to obtain the appropriate know-how and machinery to carry out the

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1/ "Sea-bed mineral resources: recent developments", progress report by the Secretary-General, A/AC.138/90, 3 July 1973, p. 12.

2/ Ibid., p. 6.

3/ While there is no information available on the total costs involved in marine technology transfer, a calculation relating to only two types of cost (i.e. royalties and technical fees) puts expenditure on the import of technology in general by developing countries in or around 1968 at about $1,500 million, a figure equal to 5 per cent of the exports of developing countries (excluding major oil exporters) and 40 per cent of their debt-servicing costs. On the same basis, it is estimated that these payments for technology alone are likely to increase by approximately 20 per cent per annum during the [illegible], a gross rate which implies annual payments of roughly $9 billion by the end of the decade. See United Nations document "Transfer of technology report", UNCTAD secretariat TD/106, paras. 35-36 and statements in Sub-Committee III of the Sea-bed Committee by the representatives of Pakistan and Venezuela, A/AC.138/SC.III/SR.43.

project. Due to the general low levels of economic activity and technological sophistication and of the scarcity of skills, developing countries are often inadequately equipped to meet these requirements. Moreover, the recipient often lacks the essential information (e.g. state of the art and the firms and companies capable of providing the service or equipment) upon which some of these decisions are to be based. As to application, even when the required technology is made available, there are still problems of operation, management and marketing to overcome.

27. In projects involving scientists from various disciplines and large-scale equipment and machinery (as in the nodule mining industry), the freedom to seek different sources of development assistance tends to be limited to the early stages of the project. After feasibility studies, market surveys and the key technical decisions have been made, little choice is left regarding the sources of technology and the know-how needed for engineering, construction, management, operation and for marketing the output. The outcome of the negotiations on the terms and conditions for the import of equipment and machinery depends, to a considerable degree, on the negotiating power and the scope of technological information available to the recipient at the initial stage of the project. When advanced technologies, such as those for deep-sea mining, are in the hands of a small group of companies operating on a multinational basis, 1/ the bargaining advantage is likely to be on the side of the supplier.

28. Under present market conditions, 2/ the suppliers of technology are in a strong position to dictate terms and conditions. They aim to yield high rates of return which take the form not only of profits earned on equity (if the supplier holds shares in the recipient enterprise), but also of all profits earned from sale of machinery, equipment, spare parts and technical services to the recipient. The supplier can earn these high profits and protect his competitive position both by limiting the commercial freedom of the recipient through restrictive conditions in the licence contract and by his ability to switch from one method for profit collection to another with relative ease. There is also some evidence that package deals involving proprietary processing technology have involved restrictions on the commercial activities of the recipient and that these restrictions have been used to maintain high prices for intermediate goods and components.

29. There is also the problem of markets. Consider mineral production as an example. In the majority of developing countries, the internal market for key minerals produced

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1/ These include, for example, Summa Corporation (ex-Hughes Tool Corp.), Kennecott Copper Corporation, Deepsea Ventures Inc. (an affiliate of Tenneco), International Nickel Corporation, Summitomo Group/MITI, West German Arbeitsgemeinschaft Meerestechnischewinnbare Rohstoffe (AMR), Centre National pour l'exploitation des oceans (CNEXO) and Societé de Nickel of France. For their recent activities see Economic Implications of Sea-bed Mineral Development in the International Area: report of the Secretary-General, A/CONF.62/25, 22 May 1974, pp. 12-22.

2/ This part is based on Guidelines for the study of the transfer of technology to developing countries, TD/B/AC.11/9, United Nations, New York, 1972 (Sales No. E.72.II.D.19), chapter I, pp. 6-8.

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domestically thus far is very limited. Efficient exploitation requires ready access to export markets. Export markets, however, are often dominated by large, vertically integrated enterprises which control the production of the minerals. Dependence on foreign technology, investment and export markets is not unique to developing countries; certain developed countries are faced with the same problem. However, since in the case of developing countries, the flow of technology is usually one way, the limitations of the market mechanism are compounded.

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IV. WAYS AND MEANS TO ENHANCE TRANSFER OF MARINE TECHNOLOGY

30. A spectrum of measures may be suggested for the purpose of promoting the transfer of marine technology. They are by no means exhaustive. These measures deal specifically with information needs and with problems related to the demand for expertise, equipment, training and education. They can be implemented individually or jointly, and at different levels - nationally, regionally and internationally, through the United Nations system. Measures which are particularly suitable for action at the regional, subregional or international levels are further elaborated at the end of this section.

A. Information needs

31. While there is an immense amount of scientific and technical data and information relevant to marine technologies, there is a need to prepare a user's guide to the many marine science and technology information services already in operation. Such a guide could also provide information on research and training institutions and the availability of consultancy services and on manufacturing firms, service organizations, engineering firms, construction companies, drilling companies, equipment lease and rental firms and the like. A collection of this information would facilitate the acquisition of the basic knowledge upon which some fundamental decisions must be made, and would also presumably help in negotiating processes, possibly leading to a more favourable recipient basis for transfers.

32. In addition, such a guide would reveal what special data are needed and in what areas, the mere publication of which could boost the necessary action required.

B. Measures to meet the need for expertise and equipment

33. Consideration should be given at two levels: those activities which require a high level of marine technology; and those areas where less sophisticated expertise, machinery and equipment suffice.

34. Perhaps with the exception of sand and gravel dredging, activities involving mineral resources exploitation generally require a high or a very high level of technology, specialized personnel (e.g. marine geologists, drilling experts and mechanical engineers), heavy equipment and machinery, and a large financial investment. An effective way to acquire the technological know-how is of course actually to develop such industries by the country itself, but the time scale of this would depend upon the state of existing technology in the country. For many developing countries, a possible way to meet the technological and financial requirements on a more reasonable time scale might be to obtain external assistance. While many forms of such assistance may be envisaged, co-operative ventures with foreign entrepreneurs may be mentioned here.

35. Co-operative ventures with foreign entrepreneurs could provide the host country on the one hand with an opportunity for direct participation in resource exploitation and on the other, with the required technological know-how, machinery and capital.

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36. Since, as mentioned earlier, uncontrolled foreign participation and investment in local enterprises can have harmful effects on national economy, it is clearly desirable to consider implementation of effective control measures at the same time. To some extent these measures could take the form of setting limits on foreign shareholding and by [illegible] laws and regulations prescribe the conditions under which external enterprises are allowed to operate. Such regulatory measures would be maintained to ensure that foreign enterprises would serve the national economy and interests.

37. While external participation and investment may appear to be an effective means for mobilizing technology and finance, it does not necessarily follow that the technology is automatically transferred to the host country. Measures for realizing the actual transfer to the host country - that is, its implantation - must be taken. One possibility is to provide an effective built-in mechanism in the co-operative arrangement. This may include the obligation of foreign entrepreneurs to organize programmes for training host country staff to become competent technical and managerial personnel, a gradual and systematic replacement of the foreign entrepreneurs' personnel by indigenous staff, and a gradual reduction in the shares held by external participants. These and other measures could be introduced to ensure and increase participation of developing countries in the conception, construction, organization and management of the enterprises.

38. In some cases, efforts to speed up the transfer of technology to the recipient may not result in the maximum direct financial benefit from the resource exploitation to the country concerned. More effective transfer may result from a slower development or from the use of less sophisticated and cheaper technology. In general, a trade-off exists between the speed of resource exploitation and the effective transfer of marine technology.

39. As to the institutional aspects of the venture, one possible approach might be to establish a corporation between the host country, which may be represented by a national company, and one or several foreign entrepreneurs. The host country would permit the company to exploit the resources and would hold a half or a majority share in the venture. The remaining part would be granted to the foreign entrepreneurs in return for their contribution of technology, investment and management.

40. Co-operative ventures may prove useful for regional undertakings, particularly in circumstances where the mineral resources are linked by contiguity or other ties. Participants in the joint operation could include not only national and international agencies but also public development corporations and private [illegible]. Shares would be held by participants in proportion to the degree of their involvement or according to some other criteria agreed upon among the parties. During the recent Sixth Special Session of the General Assembly, several delegates commended this approach and pointed out specifically that this technique could be beneficial in regard to the interchange of relevant technologies. /

1/ Paragraphs 9-14 above.

2/ See, for example, A/PV.2224, p. 41, A/PV.2211, pp. 63, 64-65.

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41. While these and other forms of co-operative ventures at national or regional level may prove useful instruments, careful study is needed to determine the terms and conditions under which a co-operative venture could work best for the economy and further transfer of marine technology.

42. The formulation of appropriate policies to encourage foreign participation and investment in the priority sectors where technical know-how and machinery are needed can certainly influence the investment decisions of foreign entrepreneurs. This purpose could be facilitated by establishing a list of foreign firms and companies specialized in the types of technical information or engineering hardware that are needed. Governments may consciously encourage negotiations aimed at obtaining foreign technology in those sectors. Foreign investment or co-operative ventures in priority sectors could also be given special consideration or favourable treatment. For example, special incentives such as tax exemption, investment allowances and the like may be considered. Adequate safeguards and allowances on the proportion of net sale or total output which can be paid in royalties and licence fees are also attractions to foreign suppliers.

43. Turning now to those areas where less sophisticated and less expensive machinery and equipment should be developed, some illustrative examples are: processing, handling and preservation of fish and other marine resources; biological and chemical monitoring techniques for aquaculture; construction of boats and simple marine structures; small engines for fishing boats and ferries; sand and gravel dredging and the exploitation of other beach mineral deposits; new techniques in fishing or seaweed harvesting; local waste treatment schemes to prevent damage to tourism and living marine resources; recovery of salt and other chemicals; and desalination, possibly using solar stills.

44. A detailed description of equipment and machinery needs arising from these specific uses of the sea could be prepared for the information of users. Such a study should give special attention to a range of valuable intermediate technologies and to situations in which comparatively simple and inexpensive equipment and machinery could increase efficiency.

C. Training and education

45. Although there is a felt need in developing countries for training and education in marine science and technology, the areas of special training needed in marine technology should be identified and investigated. A list of priorities should be established. The United Nations, the specialized agencies and other education and training establishments throughout the world could then be encouraged to offer courses to meet identified needs.

46. It seems equally important that the coverage of existing courses in this field should be catalogued, firstly, to avoid duplication of effort and secondly, to give developing countries the information on where best to send their students for overseas training. This should perhaps form an important section of the "user's guide". 1/

1/ See paragraph 31 above.

47. Since at present marine technology firms and organizations already accept students for periods of [illegible] arrangements might be made for accepting trainees from developing countries. The United Nations could disseminate details of such organizations and training programmes.

48. During the Sea-Bed Committee's discussions, a number of countries 1/ already indicated their readiness to expand education and training programmes in marine science and technology. Such programmes might be organized by and administered through the United Nations and the specialized agencies, if it is so desired.

D. Possible action at regional and subregional level

49. Certain more specific measures which may be taken at the regional level (e.g. co-operative ventures) have already been mentioned in connexion with the need for expertise, equipment and machinery. Here are certain illustrative examples of possible action which may be envisaged.

50. The feasibility of any regional or subregional action presupposes a viable or "co-operative" political atmosphere within a region and common understanding of the problem. The possibility of establishing regional marine technology institutes may be explored. 2/ Such institutes could utilize the combined resources and capability of the region to build up appropriate equipment and machinery; to establish education and training facilities to meet the needs in marine activities (e.g. regional maps and a data bank covering all information relating to the geology and mineral potential of coastal and continental margins) and to support a marine technology programme (e.g. coastal area development) in the interests of the participants. In this way, the common requirements of a group of co-operating countries in various scientific and technical areas could be met much more efficiently than if each country tried to establish a marine capability in every subject of interest. Also, in this way, countries could utilize the institute for specific projects of national concern.

51. A number of other forms of regional co-operation may also be explored. For example, countries in a region may establish a common objective in marine resource exploitation (e.g. off-[illegible] oil production) and draw up a stage-by-stage implementation plan. As a first stage, each would specialize in one or a number of chosen areas (e.g. divers, geologists, petroleum engineers, drilling technologists or biologists). The pooling of the expertise from the participants would constitute a nucleus for joint action.

52. Another possibility would be to promote mutual assistance and to utilize expertise which can first be found within the region. Thus, it might be possible in Latin America, for example, for a neighbouring country which desires to develop its capability in seismology to request assistance from Colombia, which is known already to have a well-developed seismology programme, instead of engaging an expert from outside the region who may not be familiar with Latin American areas and the technical and scientific resources of that region.

1/ See summary records, A/AC.138/SC.III/SR.42.

2/ During the discussion held at the Sea-Bed Committee, such a view was expressed by several delegates (see A/AC.138/SC.III/SR.49).

53. As mentioned before, regional or subregional action may prove useful particularly in circumstances where the resources are linked by contiguity. Coastal area development 1/ is another example possessing such characteristics and is conducive to action at a regional level, given the necessary elements of political support and common interests.

E. Appropriate actions which may be taken by the United Nations

54. Although certain aspects of marine technology fall within the regular activities of several specialized agencies, the scope of the activities is still very limited. Many new areas of marine resource exploitation and uses of ocean space remain outside the present framework. A detailed account of the activities and terms of reference of all United Nations bodies concerned from the standpoint of transfer of marine technology is needed. Such an account would reveal gaps and inadequacies in the existing arrangements so that appropriate action could be contemplated. 2/

55. On the basis of a preliminary evaluation of the present activities in the United Nations system alone, the following areas may be singled out to illustrate present needs.

56. Realistic and well-designed plans to develop and operate a capability in a marine activity for which demand can be demonstrated would be likely to attract investment capital in any country, developed or developing. The United Nations and its specialized agencies can help in formulating such plans.

57. There are obvious needs for expert services to discover and inventory the marine resources and their market, and for data services in obtaining, selecting and evaluating the mass of data of possible relevance to development of marine technology capabilities. Services of this kind are of general interest and are beneficial to many interested countries. They are, however, economically high risk activities, 3/ which might otherwise not be carried out.

1/ Mention may be made of resolution 1802 (LV) of the Economic and Social Council which, in part II, requested the Secretary-General to prepare a comprehensive interdisciplinary study to identify and review the problems of coastal area development and to make proposals for possible appropriate action at the regional and subregional levels.

2/ In part I of Economic and Social Council resolution 1802 (LV) of 7 August 1973, the Secretary-General was requested to include in his report on the uses of the sea a survey of the existing arrangements in the United Nations system for making available to interested countries, particularly the developing countries, information on advances in technology and the transfer of such technology to them. The report is to be submitted to the fifty-ninth session of the Council in 1975. It would appear that the information requested by the Council could also be useful for the consideration of the Conference.

3/ Although initial survey for some marine resources need not be very expensive, particularly if expertise is available locally, the cost of proving a reserve may be great - as much as 10 per cent of the total cost of extracting the resource.

58. The preparation of a user's guide on Marine Technology may provide a useful working tool and could also meet the special needs for information and knowledge regarding services, equipment, machinery and techniques mentioned earlier. Such a guide would be designed primarily for policy-makers and managerial personnel in the developing countries who are involved in the uses of marine resources and ocean space. It could provide a stage-by-stage description of the alternative methods and technological requirements in establishing a marine activity (e.g. oil, gas, nodules, fishing, agriculture, shipping and so on). Sources of supply of the various technologies, equipment and services, and economic considerations such as cost and benefit and market situations could also be included.

59. A preliminary survey indicates that there is sufficient information readily available for preparing a marine technology guide outlined above. The United Nations and its specialized agencies could be given sections (e.g. fisheries, shipping, and drugs) of the guide according to their expertise and competence. In fact, several specialized agencies have already prepared studies of similar kind in the conduct of their regular activities: thus, for example, FAO for fishing technology; IMCO for use and testing of sea-borne navigation equipment; WHO for drugs from marine organisms; IAEA for safety evaluation of nuclear merchant ships; UNESCO for marine data inventory.

60. But, on the other hand, initiatives have yet to be taken regarding such marine activities as off shore oil and gas, deep sea mining salvage, off-shore structure, land reclamation, extracting dissolved chemicals, recreation, undersea habitats and sand and gravel dredging. Action in these areas would fill important gaps in the dissemination of knowledge of and application of marine technology.

/...

V. SUMMARY OF SUGGESTIONS CONTAINED IN THE PRESENT PAPER

61. The summary given below covers the principal suggestions made in this paper concerning possible action for enhancing the transfer of marine technology. At the present rather elementary stage of development of study of this subject, these suggestions are obviously bound to be of an exploratory and illustrative nature.

/...

I. Information needs: a descriptive introduction of the kind of services, products etc. available from consultancy services, manufacturing firms, service organizations, engineering firms, construction companies, drilling companies, equipment lease and rental firms.

II. Needs for expertise and equipment:

(i) For activities requiring a high level of marine technology and large investment 1/ the feasibility of establishing co-operative ventures be further examined; to propose terms and conditions under which such a venture would best work for national economy and further transfer of marine technology; to elaborate methods for the implantation of marine technology in recipient countries.

(ii) For activities requiring less sophisticated and less expensive machinery and equipment: 1/ preparation of technical guide books describing in detail equipment and machinery needs, paying special attention to a range of valuable intermediate technologies and to situations in which comparatively simple and inexpensive equipment and machinery could increase efficiency.

III. Training and education:

(i) Identification and investigation of training needs in developing countries; United Nations, specialized agencies and other education and training establishments be encouraged to offer courses to meet the needs.

(ii) Promotion of training programmes given by marine technology firms and organizations: United Nations to disseminate details of such available programmes.

IV. Possible action at regional and subregional level:

(i) Exchange of information relating to marine technology.

(ii) Setting up regional marine technology institutes.

(iii) Regional co-operative action: drawing up common objectives (e.g. off-shore oil production) and each participant to specialize in one or a number of chosen areas (e.g. divers, geologists, petroleum engineers, drilling technologists); pooling specialization for the implementation of the common objective.

(iv) Mutual assistance and utilization of expertise in the region.

1/ The division is made on a comparative basis and is therefore relative.

V. Possible United Nations action:

(i) Preparation of user's guide on marine technology for policy-makers and managerial personnel; providing stage-by-stage description of alternative methods and technological requirements regarding such activities as oil and gas, deep-sea mining, salvage, off-shore structure, land reclamation, extracting dissolved chemicals, desalination, recreation, etc.

(ii) A detailed account of activities and terms of reference of all United Nations bodies concerned from the standpoint of transfer of marine technology.

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THIRD COMMITTEE

NIGERIA: DRAFT ARTICLES ON THE DEVELOPMENT AND TRANSFER OF TECHNOLOGY

Article 1

1. To insure adequate and equitable transfer of technology in accordance with the concept of the common heritage of mankind in the ocean space, States with the capacity for marine scientific research shall always and at all levels associate with personnel of developing countries.

Article 2

1. Regional Scientific Research Centres shall be established, as suborgans of the International Sea-Bed Authority, in the developing countries.

2. The functions of such Regional Scientific Research Centres shall include:

(a) advanced training and education on all aspects of marine scientific research, particularly marine biology, oceanography, cartography, sea-bed mining, engineering and mineralogy;

(b) advanced management studies; and

(c) prompt publication of results of marine scientific research in readily available journals.

Article 3

1. The International Sea-Bed Authority shall ensure that adequate provisions are made in its exploration and exploitation licences and contracts with States and nationals of other States whether natural or juridical, for enterprises granted exploration and exploitation rights under such licences and contracts, to take on as members of their staff under training, nationals of developing countries whether coastal, land-locked or otherwise geographically disadvantaged.

2. The International Sea-Bed Authority shall make available to any country on request, blueprints and patents of plants and machinery used in the exploration and exploitation of the international area.

3. The International Sea-Bed Authority shall obtain from any State to which it has granted the rights of exploration and exploitation of the sea-bed under licences or contracts on payment of reasonable fees or premiums, blueprints and patents of the plants and machinery used by such States or their nationals in the exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction.

4. The International Sea-Bed Authority shall ensure that adequate provisions are made by it to facilitate the acquisition by any developing State or its nationals of the necessary skills and "know-how" in any undertaking by the Authority of enterprises for exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction.

Article 4

1. All States are under a duty to co-operate actively with the International Sea-Bed Authority to facilitate the transfer of skills in marine scientific research and technology to developing States and their nationals.

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THIRD COMMITTEE

Brazil, Ecuador, Egypt, Iran, Mexico, Morocco, Nigeria, Oman, Pakistan, Peru, Senegal, Somalia, Sri Lanka, Trinidad and Tobago, Tunisia, Uruguay, Venezuela and Yugoslavia: draft articles on the development and transfer of technology

Article 1

1. All States shall actively promote the development of the scientific and technological capacity of developing States with regard to the exploration, exploitation, conservation and management of marine resources, the preservation of the marine environment and the legitimate uses of ocean space, with a view to accelerating their social and economic development.

2. To this end, States shall, inter alia, either directly or through appropriate international organizations:

(a) promote the acquisition, development and dissemination of marine scientific and technological knowledge;

(b) facilitate the transfer of technology, including know-how and patented and non-patented technology;

(c) promote the development of human resources and the training of personnel;

(d) facilitate access to scientific and technological information and data;

(e) promote international co-operation at all levels, particularly at the regional, subregional and bilateral levels.

3. In order to achieve the above-mentioned objectives and taking into account the interests, special needs and conditions of developing States, States shall inter alia:

(a) establish programmes of technical assistance for the effective transfer of all kinds of marine technology to developing States;

(b) conclude agreements, contracts and other similar arrangements, under equitable and reasonable conditions;

(c) hold conferences, meetings and seminars on appropriate scientific and technological subjects;

(d) promote the exchange of scientists, technologists and other experts;

(e) undertake projects, including joint-ventures, mixed enterprises and other forms of bilateral and multilateral co-operation.

Article 2

1. All States are under a duty to co-operate actively with the "Authority" to encourage and facilitate the transfer of skills in marine scientific activities and related technology to developing States and their nationals.

Article 3

The "Authority" shall, within its competence, ensure:

(1) that adequate provisions are made in its legal arrangements with juridical and natural persons engaged in marine scientific activities, the exploration of the international Area, the exploitation of its resources and related activities to take on under training as members of the managerial, scientific and technical staff constituted for these purposes, nationals of developing States whether coastal, land-locked or otherwise geographically disadvantaged, on an equitable geographical distribution.

(2) that all blueprints and patents of the equipment, machinery, devices and processes used in the exploration of the international Area, the exploitation of its resources and related activities be made available to all developing States upon request.

(3) that adequate provisions are made by it to facilitate the acquisition by any developing State, or its nationals, of the necessary skills and know-how including professional training in any undertaking by the Authority for exploration of the international Area, exploitation of its resources and related activities.

(4) that a Special Fund is established to assist developing States in the acquisition of necessary equipment, processes, plant and other technical know-how required for the exploration and exploitation of their marine resources.

Article 4

1. States shall promote the establishment in developing States of regional marine scientific and technological research centres, in co-ordination with the Authority, international organizations and national marine scientific and technological institutions.

2. The functions of such Regional Scientific and Technological Research Centres shall include, inter alia:

(a) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geology, sea-bed mining and desalination technologies;

(b) management studies;

(c) study programmes related to the preservation of the marine environment and the control of pollution;

(d) organization of regional seminars, conferences and symposia;

(e) acquisition and processing of marine scientific and technological data and information, in order to serve as regional data centres;

(f) prompt dissemination of results of marine scientific and technological research in readily available publications;

(g) serving as a repository of marine technologies for the States of the region covering both patented and non-patented technologies and know-how; and

(h) technical assistance to the countries of the region.

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Trinidad and Tobago: draft articles on marine scientific research

DEFINITION AND OBJECTIVES

Nature and Characteristics

Article I

(a) Marine Scientific Research is any study or investigation of the marine environment and experiments related thereto.

(b) Marine Scientific Research is of such a nature as to preclude any clear or precise distinction between pure scientific research and industrial or other research conducted with a view to commercial exploitation or military use.

(c) Such research shall be conducted for the benefit of mankind by means not harmful to the marine environment.

REGIME FOR SCIENTIFIC RESEARCH IN THE TERRITORIAL SEA

Article II

Marine Scientific Research in the territorial sea shall only be conducted with the prior approval of the coastal State and in accordance with its laws and regulations.

Article III

The exercise of innocent passage in the territorial sea of a coastal State does not confer on States in the course of such passage the right to undertake marine scientific research.

REGIME FOR SCIENTIFIC RESEARCH IN THE ECONOMIC ZONE/PATRIMONIAL SEA AND CONTINENTAL SHELF

Article IV

Marine Scientific Research in the exclusive economic zone/patrimonial sea and on the continental shelf shall be conducted only with the prior authorization of the coastal State and subject to the following minimum requirements. The coastal State shall have the right:

(a) To conduct and regulate scientific research or investigation and to participate or be represented in any programme of research which it authorizes.

(b) To receive information regarding the nature and objectives, geographical areas and proposed dates of such research, as well as the name of the sponsoring organization or institution.

(c) To obtain the results of such research, including copies of raw data, and to share with the researching State any specimens or records obtained. Where such specimens cannot be duplicated the originals shall remain the property of the coastal State.

(d) To require that the results of all scientific research shall be published only with the consent of the coastal State, such consent or refusal being given within a reasonable time.

MARINE SCIENTIFIC RESEARCH IN THE INTERNATIONAL ZONE 1/

Article V

Marine Scientific Research in the International Area shall be conducted directly by the International Authority and, if appropriate, by persons, juridical or physical, through service contracts or associations, or through any other such means which may be determined by the International Authority and which shall ensure its direct and effective control at all times over such research

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1/ This article has been co-sponsored by 19 States: Bangladesh, Brazil, China, Guyana, Indonesia, Iran, Kenya, Kuwait, Madagascar, Pakistan, Peru, Philippines, Senegal, Sierra Leone, Somalia, Trinidad and Tobago, Tunisia, Yugoslavia, Zaire (see CRP/Sc.Res./8/Rev.1).

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THIRD COMMITTEE

Colombia: draft articles on marine scientific research 1/

Item 2 (a) - Right to undertake marine scientific research

1. Coastal States have the exclusive right to conduct and regulate marine scientific research in their (...)* and to authorize and regulate such research as provided for in article ...

2. Marine scientific research in the international area** shall be conducted directly by the International Authority and, if appropriate, by persons, juridical or physical, through service contracts or associations or through any other such means as the International Authority may determine, which shall ensure its direct and effective control at all times over such research.

Item 2 (b) - Consent, participation and obligations of the coastal State

1. Marine scientific research in the (...)* of a coastal State shall not be conducted without the explicit consent of that State.

2. States and appropriate international and regional organizations, as well as persons, juridical and physical, seeking consent of the coastal State to conduct marine scientific research in the area referred to in paragraph 1 shall, inter alia:

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* A decision on the precise terms to be used here, such as economic zone, patrimonial sea, national sea area under national jurisdiction and/or sovereignty, and continental shelf, and which do not refer to the international area, shall be adopted in the light of the decisions on the definition and nature of those terms in the Second Committee.

** The international area referred to in this paragraph is the area with which the First Committee is concerned. With regard to the remaining international area, the matter will be discussed at a later stage.

1/ The delegate of Colombia, as the Chairman of the Group of 77, while presenting this document, would like to point out that it represents the consensus of the Group of 77 of the Third Committee, without committing the final position of members of the Group.

(1) undertake to conduct the research exclusively for peaceful purposes;

(2) disclose the nature and objective of the research, as well as the means to be used, including satellites and ODAS;

(3) indicate the precise geographical area in which the activities concerning such research are to be conducted;

(4) state the proposed date for commencement of the activities and the period for completing the project;

(5) give full information and particulars regarding the sponsoring institution, if any, the scientific staff, and the vessels, equipment and other means to be employed, such as ODAS and remote sensing devices operating in the atmosphere or beyond;

(6) provide the coastal State with a detailed description of the research project which shall be kept up to date;

(7) include active participation or representation of the coastal State, if it so desires, in all stages of the research project;

(8) undertake to supply on time all raw and processed data, including the final evaluations and conclusions and samples to the coastal State;

(9) assist the coastal State in assessing the implications of the said data and samples and the results thereof in such a manner as that State may request;

(10) undertake that results of scientific research shall not be published without the explicit consent of the coastal State: and

(11) undertake to comply with all applicable environmental standards and regulations of the coastal State, as well as international standards established or to be established by (insert name or names of appropriate organizations).

3. The coastal State shall have the right to supervise marine scientific research activities undertaken in the area referred to in paragraph 1 and suspend or terminate them if that State finds that these activities are not being carried out for the declared objective or purpose of the research or are not being carried out in accordance with the provisions of these articles.

4. (Participation of developing land-locked States and developing geographically disadvantaged States:

On this question, proposals were submitted by the delegations of Singapore, India, Peru and Lesotho and an amendment was submitted by the delegation of Iran to the proposal of Singapore. These proposals, which due to lack of time could not be considered at this session, have been given to the Chairman of the Group of 77 for circulation within the Group, with a decision by the Group that they will be considered at the next session of the Conference or, in case of an intersessional meeting of the Group, at such meeting.)

5. The exercise of innocent passage and navigation does not confer on States, international organizations or other juridical or natural persons the right to undertake marine scientific research.

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Colombia: draft articles on marine scientific research

Corrigendum

Foot-note,* second line,

For national sea area read national sea or area

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Austria, Belgium, Bolivia, Botswana, Denmark, Germany, Federal Republic of, Laos, Lesotho, Liberia, Luxembourg, Nepal, Netherlands, Paraguay, Singapore, Uganda, Upper Volta and Zambia: draft articles on marine scientific research

Note: These draft articles do not necessarily represent the final position of the sponsors on individual articles or on the draft as a whole. Sponsorship does not prejudice their position on previous or future draft proposals.

Article 1

"Marine scientific research" means any study of and related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes.

Article 2

All States, whether coastal or land-locked, as well as appropriate international organizations, have the right to conduct marine scientific research subject to the provisions of this Convention.

Article 3

Marine scientific research shall be conducted with due regard to other legitimate uses of the sea and it shall not be subject to undue interference caused by such other uses.

Article 4

Marine scientific research shall be conducted in conformity with those provisions of this Convention and other rules of international law concerning the preservation of the marine environment.

Article 5

Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

/...

Article 6

1. Marine scientific research beyond the territorial sea, in areas where a coastal State enjoys certain rights over resources in accordance with this Convention, shall be conducted by States as well as by appropriate international organizations in such a manner that these rights of coastal States are respected, for which purpose the coastal State shall:

(a) be given at least ... months' advance notification of the proposed research project;

(b) be given as soon as possible a detailed description of the research project, including objectives, methods and instrumentation, locations and time schedule, and information on the research institution concerned and on the scientific staff to be employed;

(c) be promptly informed of any major changes with regard to the description of the proposed research project;

(d) have the right to participate directly or indirectly in the research project;

(e) have access to all data and samples obtained in the course of the research project and be provided, at its request, with duplicable data and divisible samples;

(f) be given assitance, at its request, in the interpretation of the results of the research project.

2. States and appropriate international organizations conducting marine scientific research in the areas referred to in paragraph 1 above shall take due account of the legitimate interests and rights of the neighbouring land-locked and other geographically disadvantaged States of the region, as provided for in this Convention, and shall notify these States of the proposed research project, as well as provide, at their request, relevant information and assitance as specified in paragraph 1 (b), (c) and (f) above. Such neighbouring land-locked and other geographically disadvantaged States shall be offered, at their request, where research facilities permit, the opportunity to participate in the proposed research project.

3. States and appropriate international organizations engaged in the conduct of marine scientific research shall ensure that the research results are published as soon as possible in readily available scientific publications and that copies of such publications are supplied directly to the coastal State and to neighbouring land-locked and other geographically disadvantaged States.

4. Deep drilling or the use of explosives for the purpose of marine scientific research likely to affect the sea-bed or its subsoil may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

5. Disputes concerning the interpretation or application of this article shall, at the request of any party to such dispute, be settled in accordance with the procedures set out in the relevant articles of this Convention.

Article 7

Marine scientific research beyond the areas specified in articles 5 and 6 above may be carried out by all States, whether coastal or land-locked, and by appropriate international organizations.

Article 8

1. States shall, on the basis of mutual respect for sovereignty and mutual benefit, promote international co-operation in marine scientific research.

2. States shall co-operate with one another through the conclusion of bilateral and multilateral agreements to ensure favourable conditions for the conduct of marine scientific research for peaceful purposes, the removal of obstacles to such research and the co-ordination of efforts by scientists in studying the phenomena and processes occurring in the marine environment.

3. States shall individually and in co-operation with other States and with appropriate international organizations actively promote the flow of scientific data and information, the transfer of experience gained from marine scientific research to developing and land-locked countries and the strengthening of the independent marine scientific research capabilities of developing countries, particularly land-locked among them, by such means as programmes to provide adequate training of their technical and scientific personnel.

4. States shall facilitate the availability of information and knowledge resulting from marine scientific research by effective international communication of proposed major programmes and their objectives, and by publication and dissemination through international channels of their results.

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Texts on items 13 and 14 (Marine scientific research and Development and transfer of technology)

I

Texts agreed upon in the informal meetings

A

General principles

1. States shall endeavour to promote and facilitate the development and conduct of marine scientific research not only for their own benefit but also for the benefit of the international community in accordance with the provisions of this Convention.

2. In the conduct of marine scientific research the following general principles shall apply:

(a) marine scientific research activities shall be conducted exclusively for peaceful purposes;

(b) such activities shall not unduly interfere with other legitimate uses of the sea compatible with the provisions of this Convention and shall be duly respected in the course of such uses;

(c) such activities shall comply with regulations established in conformity with the provisions of this Convention, for the preservation of the marine environment;

(d) ...

3. Marine scientific research activities shall not form the legal basis for any claim whatsoever to any part of the marine environment or its resources.

4. Alternative one:

Marine scientific research shall be conducted subject to the rights of coastal States within the areas under their sovereignty and/or jurisdiction.

Alternative two:

Marine scientific research shall be conducted subject to the rights of coastal States as provided for in this Convention.

5. Alternative one:

Marine scientific research shall be conducted in the international area subject to the international régime as provided for in this Convention.

Alternative two:

The high seas are open to the unhampered pursuit of scientific research by all States on a basis of equality, without discrimination of any kind. Marine scientific research in the international sea-bed area shall be conducted subject to the régime of that area as provided for in this Convention.

Alternative three:

Omit any such provision.

B

International and Regional Co-operation for Marine Scientific Research including Exchange and Publication of Scientific Data*

The co-operation envisaged in this article shall be subject to the relevant provisions of this Convention.

1. States shall, in accordance with the principle of respect for sovereignty** and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.

2. States shall co-operate with one another, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of scientific research in the marine environment and to integrate the efforts by scientists in

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* A view was expressed that international and regional co-operation for marine scientific research should be pursued in accordance with the international régime and the competences of the International Authority as provided for in this Convention.

** A view was expressed that the use of the word "sovereignty" here does not imply recognition of any claims of sovereign immunity by the researching State.

/...

studying the essence of and the interrelations between phenomena and processes occurring in the marine environment.

3. States shall, both individually, and in co-operation with other States and with competent international organizations, actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research in particular to developing countries, as well as the strengthening of the autonomous marine research capabilities of developing countries through, inter alia, programmes to provide adequate education and training of their technical and scientific personnel.

4. The availability to every State of information and knowledge resulting from marine scientific research shall be facilitated by effective international communication of proposed major programmes and their objectives, and by publication and dissemination of the results through international channels.

II

Consolidated alternative texts presented to the Chairman on:

Conduct and promotion of marine scientific research

(a) Right to conduct marine scientific research

(b) Consent, participation and obligations of coastal States

/Alternative A/

(a) Right to conduct marine scientific research

1. Coastal States have the exclusive right to conduct and regulate marine scientific research in their *(...) and to authorize and regulate such research as provided for in article ...

2. Marine scientific research in the international area** shall be conducted directly by the International Authority and, if appropriate, by persons, juridical or physical, through service contracts or association or through any other such means as the International Authority may determine, which shall ensure its direct and effective control at all times over such research.

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* A decision on the precise terms to be used here, such as economic zone, patrimonial sea, national sea or area under national jurisdiction and/or sovereignty, and continental shelf, and which do not refer to the international area, shall be adopted in the light of the decisions on the definition and nature of those terms in the Second Committee.

** The International Area referred to in this paragraph is the area with which the First Committee is concerned. With regard to the remaining international area the matter will be discussed at a later stage.

(b) Consent, participation and obligations of the coastal State

1. Marine scientific research in the *(...) of a coastal State shall not be conducted without the explicit consent of that State.

2. States and appropriate international and regional organizations as well as persons, juridical and physical, seeking consent of the coastal State to conduct marine scientific research in the area referred to in paragraph 1, shall, inter alia:

(i) undertake to conduct the research exclusively for peaceful purposes;

(ii) disclose the nature and objective of the research, as well as the means to be used, including satellites and ODAS;

(iii) indicate the precise geographical area in which the activities concerning such research are to be conducted;

(iv) state the proposed date for commencement of the activities and the period for completing the project;

(v) give full information and particulars regarding the sponsoring institution, if any, the scientific staff and the vessels, equipment and other means to be employed, such as ODAS and remote sensing devices operating in the atmosphere or beyond;

(vi) provide the coastal State with a detailed description of the research project which shall be kept up to date;

(vii) include active participation or representation of the coastal State, if it so desires, in all stages of the research project;

(viii) undertake to supply on time all raw and processed data, including the final evaluations and conclusions and samples to the coastal State;

(ix) assist the coastal State in assessing the indications, the said data and samples and the results thereof, in such manner as that State may request;

(x) undertake that results of scientific research shall not be published without the explicit consent of the coastal State; and

(xi) undertake to comply with all applicable environmental standards and regulations of the coastal State as well as international standards established or to be established by (insert name or names of appropriate organizations).

3. The coastal State shall have the right to supervise marine scientific research activities undertaken in the area referred to in paragraph 1, and suspend or terminate it, if that State finds that these activities are not being carried out for the declared objective or purpose of the research or are not being carried out in accordance with the provisions of these articles.

4. (Participation of developing land-locked States and developing geographically disadvantaged States.

On this question proposals were submitted by the delegations of Singapore, India, Peru and Lesotho and an amendment was made by the delegation of Iran to the proposal of Singapore.

These proposals, which due to lack of time could not be considered at this session, have been given to the Chairman of the Group of 77, for circulation within the Group, with a decision by the Group, that they will be considered at the subsequent session of the Conference, or in case of an intersessional meeting of the Group, at such a meeting.)

5. The exercise of innocent passage and navigation does not confer on States, international organizations or other juridical or natural persons the right to undertake marine scientific research.

/Alternative B/

1. Marine scientific research in the economic zone shall only be conducted with the consent of the coastal State. Consent shall not normally be withheld when the State or international organization making an application to conduct such research:

(a) provides the coastal State with a full description of

(i) the nature and objectives of the research project;

(ii) the means to be used, including equipment and the name, tonnage, type and class of vessels;

(iii) the precise geographical areas in which the activities are to be conducted;

(iv) the expected date of first appearance and final departure of the research team, equipment or vessels as the case may be; and

(v) relevant particulars concerning proposed scientific personnel and their qualifications; and

(b) undertakes to

(i) ensure the right of the coastal State to participate or to be represented in all phases of the research project, if it so desires;

(ii) provide to the coastal State on an agreed basis raw and processed data and samples of materials;

(iii) assist the coastal State in assessing the implications of the data and results; in particular, if requested, submit to the coastal State as soon as practicable after the completion of the research a report including a preliminary interpretation;

/...

(iv) ensure that research results are published as soon as feasible in a readily available scientific publication unless otherwise agreed;

(v) comply with all relevant provisions of this Convention; and

(vi) fulfil any other requirement that may be agreed upon.

2. The provisions of paragraph 1 shall apply to marine scientific research conducted by means of Oceanographic Data Acquisition Systems (ODAS).*

3. The provisions of paragraphs 1 and 2 shall apply with respect to applications made by natural or juridical persons, whose applications have the endorsement of a State or international organization. In addition, the coastal State may require that such applications be made through appropriate official channels.

4. The provisions of the above paragraphs shall apply to marine scientific research concerning the continental shelf.

5. In considering an application made in accordance with paragraph 1, the coastal State shall take into account the duty of all States to promote marine scientific research for peaceful purposes.

/Alternative C/

I. All States, whether coastal or land-locked, as well as appropriate international organizations, have the right to conduct marine scientific research subject to the provisions of this Convention.

* * *

II. Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and shall be answered without undue delay.

* * *

III. 1. Marine scientific research beyond the territorial sea, in areas where a coastal State enjoys certain rights over resources in accordance with this Convention, shall be conducted by States, whether coastal or land-locked, as well as by appropriate international organizations in such a manner that these rights of coastal States are respected, for which purpose the coastal State shall:

(a) be given at least ... months' advance notification of the proposed research project;

(b) be given as soon as possible a detailed description of the research project, including objectives, methods and instrumentation, locations and time

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* The provisions of this article are not intended to apply to marine scientific research conducted by means of satellites, on which other provisions may be required, for example regarding the acquisition and dissemination of data and the transfer of technology.

/...

schedule, and information on the research institution concerned and on the scientific staff to be employed;

(c) be promptly informed of any major changes with regard to the description of the proposed research project;

(d) have the right to participate directly or indirectly in the research project;

(e) have access to all data and samples obtained in the course of the research project and be provided, at its request, with duplicable data and divisible samples;

(f) be given assistance, at its request, in the interpretation of the results of the research project.

2. States and appropriate international organizations conducting marine scientific research in the areas referred to in paragraph 1 above shall take due account of the legitimate interests and rights of the neighbouring land-locked and other geographically disadvantaged States of the region, as provided for in this Convention, and shall notify these States of the proposed research project, as well as provide, at their request, relevant information and assistance as specified in paragraph 1 (b), (c) and (f) above. Such neighbouring land-locked and other geographically disadvantaged States shall be offered, at their request, where research facilities permit, the opportunity to participate in the proposed research project.

3. States and appropriate international organizations engaged in the conduct of marine scientific research shall ensure that the research results are published as soon as possible in readily available scientific publications and that copies of such publications are supplied directly to the coastal State and to neighbouring land-locked and other geographically disadvantaged States.

4. Disputes concerning the interpretation or application of this article shall, at the request of any party to such dispute, be settled in accordance with the procedures set out in the relevant articles of this Convention.

* * *

IV. Marine scientific research beyond the areas specified in the articles above may be carried out by all States, whether coastal or land-locked, and by appropriate international organizations.

Foot-note: In these articles the term "Marine scientific research" means any study of and related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources designed to increase man's knowledge and conducted for peaceful purposes.

/Alternative D/

Article 1

Marine scientific research means any study of, and related experimental work in, the marine environment designed to increase man's knowledge and conducted for peaceful purposes.

Article 2

Marine scientific research within the territorial sea established in accordance with this Convention may be conducted only with the consent of the coastal State. Requests for such consent shall be submitted to the coastal State well in advance and answered without undue delay.

Article 3

States and appropriate international organizations have freedom to carry out marine scientific research in areas where coastal States enjoy economic rights over marine resources in accordance with the provisions of this Convention, except that marine scientific research concerned with the exploration or exploitation of the living and non-living resources shall be subject to the consent of the coastal State. Requests for consent shall be submitted well in advance and shall be answered without undue delay.

Article 4

In the international area all States, whether coastal or land-locked, and appropriate international organizations have the freedom to carry out marine scientific research related to the sea-bed subsoil and superjacent waters.

III

Texts submitted as conference room papers to the informal meetings*

A. "Definition and Objectives of Marine Scientific Research"

NETHERLANDS

"Marine scientific research is any study of and related experimental work in the marine environment excluding industrial exploration and other activities aimed at the direct exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes."

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* The texts were not discussed in the informal meetings.

/...

SUDAN

"Marine scientific research is any study and related experimental work conducted in the interest of peace and human welfare and aimed at increasing mankind's knowledge."

SPAIN

Marine scientific research means any study and related experimental work designed to increase mankind's knowledge of the marine environment.

EGYPT

"Scientific research lends itself to all investigations dealing with natural phenomena in the marine environment and the atmosphere there above, as well as to promotion of methodology for abatement of marine pollution and other abnormalities. Scientific research is contradictory to all non-peaceful aspects, and does not cover activities aimed at the direct exploitation of the marine resources."

B. Legal status of installations for marine environment research

ARGENTINA

The emplacement of any type of scientific research installations on the continental shelf by third States or their nationals shall be subject to authorization by the coastal State, and such installations shall be under its jurisdiction.

KENYA

1. Fixed or floating scientific research installations or equipment located within the areas of national jurisdiction and/or sovereignty shall be subject to the jurisdiction of the coastal State.

2. Fixed or floating scientific research installations or equipment located in areas beyond the limits of national jurisdiction shall be operated in accordance with the international régime as provided for in this Convention.

PEOPLE'S REPUBLIC OF BULGARIA, POLISH PEOPLE'S REPUBLIC, UKRAINIAN SOVIET SOCIALIST REPUBLIC, UNION OF SOVIET SOCIALIST REPUBLICS

Fixed scientific research installations, whether standing on the ground or at anchor, and also floating stations or mobile installations established in the marine environment in accordance with the provisions of articles ____ of this Convention

and other rules of international law shall be subject to the jurisdiction of the State which installed them, unless other provision is made in agreements between the State conducting the research and the coastal State which may be concluded when under articles _____ of this Convention, the consent of the coastal State is required for the conduct of the research.

The installations referred to in this article shall not have the status of islands or possess their own territorial waters, and their existence shall not affect the delimitation of the territorial sea, continental shelf or economic zone of the coastal State.

FRANCE

The emplacement of scientific research installations (ocean data acquisition systems - ODAS) within the limits of national jurisdiction of a State shall require the consent of that State in the same conditions as for the conduct of scientific research.

Such installations shall be subject to the jurisdiction of the State which has emplaced them, unless otherwise agreed between the State conducting the research and the coastal State.

C. Responsibility and Liability

PEOPLE'S REPUBLIC OF BULGARIA, POLISH PEOPLE'S REPUBLIC, UKRAINIAN SOVIET SOCIALIST REPUBLIC, UNION OF SOVIET SOCIALIST REPUBLICS

Article 13

States shall be held internationally liable for national activity in the world ocean, irrespective of whether it is carried out by government organs or by juridical or physical persons, and for ensuring that national activities are conducted in accordance with the provisions of this Convention.

VENEZUELA

Amendment to Article 13, paragraph 1, of document A/AC.138/SC.III/L.31

Replace the words "the world ocean, irrespective of whether it is carried out by government organs or by juridical or physical persons" by the words "areas under the jurisdiction of other States or in the international zone".

SPAIN

Amendments to paragraph 1, article 13, of document A/AC.138/SC.III/L.31

(a) Insert the words "international organizations" after the word "States" in the first line;

(b) Insert the words "scientific research" after the words "for national" at the end of the first line;

(c) Replace the words "in the world ocean" in the second line by the words "in the marine environment".

CANADA*

States shall be responsible for marine scientific research conducted in the marine environment by them or by their nationals, natural or juridical.

States shall be liable for damage, caused to the marine environment, including damage to other States and their environment, arising out of marine scientific research, when such damage is attributable to them. When such damage is attributableto their nationals, States undertake to provide recourse with a view to ensuring equitable compensation for the victims thereof.

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* NOTE: Any text on Marine Scientific Research - Responsibility and Liability - should be developed together with any similar provision regarding marine pollution damage and therefore this text may have to be amended or expanded upon at a later date.

UNITED NATIONS

THIRD CONFERENCE ON THE LAW OF THE SEA

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23 August 1974

ORIGINAL: ENGLISH

THIRD COMMITTEE

Note by the Chairman of the informal meetings of the Third Committee on item 13 (scientific research) and item 14 (development and transfer of technology) to the Chairman of the Third Committee

Mr. Chairman,

In my capacity as Chairman of the informal meetings of the Third Committee, organized to consider items 13 and 14 entitled "Marine Scientific Research" and "Development and Transfer of Technology", I have the honour to inform you as follows:

In conformity with the organization of work decided upon by the Third Committee on 11 July 1974, there were 10 informal meetings from 23 July to 23 August 1974.

At the outset the informal meetings had before them for consideration all the proposals formally submitted to Sub-Committee III of the Sea-Bed Committee, as well as the texts transmitted by Working Group 3 of the Sea-Bed Committee (WG.3/Paper No. 4 on "Definition and Objectives of Marine Scientific Research", and WG.3/Paper No. 5 on "Conduct and Promotion of Marine Scientific Research").

At the request of the Third Committee, the Secretariat prepared an informal comparative table of all the above-mentioned texts, arranged in the following outline under the headings:

1. Definition and Objectives of Marine Scientific Research

2. Conduct and Promotion of Marine Scientific Research

   (a) Right to conduct marine scientific research

   (b) Consent, Participation and Obligations of coastal States

   (c) General conditions for the conduct of marine scientific research

3. International and Regional Co-operation for Marine Scientific Research including Exchange and Publication of Scientific Data

4. International Ocean Space Institutions

5. Status of Scientific Equipment in the Marine Environment

6. Responsibility and Liability

7. Settlement of Disputes

8. Obligations under United Nations Charter and other International Treaties

The informal meetings agreed that the outline should be considered as a tool for reference purposes only and should in no way prejudice the substantive discussion on any one of the subjects.

The informal meetings endeavoured to consolidate texts or reduce the number of alternatives. For that purpose, the informal meetings agreed to establish an open-ended drafting or negotiating group, which held 11 meetings.

The group was able to elaborate a set of general principles for the conduct and promotion of marine scientific research, which are reproduced in Section I-A of document A/CONF.62/C.3/L.17.

The group also elaborated consolidated articles concerning "International and Regional Co-operation for Marine Scientific Research including Exchange and Publication of Scientific Data", which appear in Section I-B of document A/CONF.62/C.3/L.17.

Both the general principles and the text on international and regional co-operation were agreed upon by the informal meetings.

On the question of "conduct and promotion of marine scientific research", in both the aspects of the right to conduct marine scientific research, and consent, participation and obligations of coastal States, the informal meetings had before them the five alternative texts transmitted by Working Group 3 of the Sea-Bed Committee (WG.3/Paper No. 5, reproduced in volume I, paragraph 70 of the Report of the Sea-Bed Committee). Furthermore, a number of new proposals were introduced during the meetings.

The views expressed in those texts range from the concept of consent for marine scientific research by the coastal State in the area under national jurisdiction and of direct conduct of marine scientific research by the International Authority in the field of its competence, to the concept of freedom of scientific research beyond the territorial sea of the coastal State.

After intensive negotiations among delegations, four integrated alternative texts were produced which reflect the approaches expressed in the informal meetings and in the informal drafting or negotiating group with regard to that question.

Those alternative texts are reproduced in Section II of document A/CONF.62/C.3/L.17. They are not meant to prejudge the position of any delegation, nor preclude any delegation from submitting new texts or amendments at a later stage, with a view to the over-all progress of the work of the Conference.

/...

The informal meetings also discussed the "Definition and Objectives of Marine Scientific Research", taking as a basis for their work the text transmitted by Working Group 3 of the Sea-Bed Committee (WG.3/Paper No. 4 - para. 70 of the Report of the Sea-Bed Committee). Additional texts were submitted in the course of the debate; they are contained in Section III-A of document A/CONF.62/C.3/L.17 as well as in document A/CONF.62/C.3/L.9. In the debate, however, the general view emerged that it would be more appropriate to discuss the question of a definition at a later stage.

With regard to the "Status of Scientific Equipment in the Marine Environment", additional texts were introduced in the informal meetings; they appear in Section III-B of document A/CONF.62/C.3/L.17. Because of lack of time, it was not possible to proceed to a consolidation of these texts.

In dealing with the "Responsibility and Liability", the informal meetings referred mainly to paragraph 1 of article 13 of document A/AC.138/SC.III/L.31. Amendments and two additional texts were submitted which appear in Section III-C of document A/CONF.62/C.3/L.17.

With respect to the "International Ocean Space Institutions", the informal meetings decided to postpone its consideration upon request of the author of the only text proposed on this subject.

The informal meetings also decided to postpone consideration of "Settlement of Disputes" and "Obligations under United Nations Charter and other International Treaties" because the general opinion was that the questions involved should be seen in the context of the Convention as a whole.

For lack of time the informal meetings could not deal with item 14 (Development and Transfer of Technology) on which a report of the Secretariat (A/CONF.62/C.3/L.3) and two proposals (A/CONF.62/C.3/L.8 and A/CONF.62/C.3/L.12) were introduced in the Third Committee.

I avail myself of this opportunity, Mr. Chairman, to reiterate to you the assurance of my highest consideration.

(Signed) Cornel A. Metternich

UNITED NATIONS

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THIRD COMMITTEE

DRAFT STATEMENT OF ACTIVITIES OF THE THIRD COMMITTEE

Explanatory note

1. The following statement contains a brief account of the activities of the Third Committee and does not constitute a report in a formal or traditional sense. The objective is to provide a document of record and reference which will enable delegations, and the Committee as a whole, to continue without delay consideration of the subject-matter before the Committee at the next session of the Conference.

I. ESTABLISHMENT OF COMMITTEE

2. The Third Committee was one of three main committees established at the first session of the Conference in New York from 3 to 15 December 1973, to deal with the subjects covered by the three sub-committees of the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction.

3. The officers of the Committee were elected as follows:

Chairman	Mr. Alexander Yankov - Bulgaria
Vice-Chairmen	Mr. Alvaro Escallon Villa - Colombia
	Mr. Andreas J. Jacovides - Cyprus
	Mr. Wilhelm H. Lampe
	then
	Mr. Gerhard Breuer - Federal Republic of Germany
Rapporteur	Mr. Abdel Magied A. Hassan - Sudan

II. MANDATE OF THE COMMITTEE

4. By a decision of the Conference on 2 July 1974 (A/CONF.62/29), upon the recommendation of the General Committee, the Third Committee was given the task of considering the following items from the list of subjects and issues.

Item 12. Preservation of the marine environment

12.1 Sources of pollution and other hazards and measures to combat them

12.2 Measures to preserve the ecological balance of the marine environment

12.3 Responsibility and liability for damage to the marine environment and to the coastal State

12.4 Rights and duties of coastal States

12.5 International co-operation

Item 13. Scientific research

13.1 Nature, characteristics and objectives of scientific research of the oceans

13.2 Access to scientific information

13.3 International co-operation

Item 14. Development and transfer of technology

14.1 Development of technological capabilities of developing countries

14.1.1 Sharing of knowledge and technology between developed and developing countries

14.1.2 Training of personnel from developing countries

14.1.3 Transfer of technology to developing countries

5. The Conference also agreed that the following understanding reached in the Sea-Bed Committee on 27 August 1971 should be carried forward in respect of the Committees of the Conference:

> "While each sub-committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee."

III. DOCUMENTATION

6. By paragraph 6 of resolution 3067 (XXVIII), the General Assembly referred to the Conference the reports of the Sea-Bed Committee and all other relevant documentation of the General Assembly and the Committee. The Third Committee thus had before it all the documentation from Sub-Committee III of the Sea-Bed Committee including in particular the notes with annexes from the Chairmen of the two Working Groups of Sub-Committee III. The texts of these notes and annexes are reproduced in the Report of the Sea-Bed Committee (A/9021, vol. I). This statement contains an annex of a list of all formal proposals presented to date to the Committee.

IV. ORGANIZATION OF WORK

7. During the second session of the Conference in Caracas from 20 June to 29 August 1974, the Third Committee worked through formal and informal meetings. It held ... formal meetings and ... informal meetings.

/...

8. At its 2nd formal meeting held on 15 July 1974, the Committee accepted a proposal by the Chairman that it should start work with a brief general discussion to enable delegations to make statements on all the three items allocated to the Third Committee. At the conclusion of the general discussion, the Committee would hold its informal meetings to consider, alternately on a daily basis, item 12 at one meeting, and items 13 and 14 at the following meeting. The Committee agreed that when it held informal meetings on item 12 it should be under the chairmanship of Mr. José-Luis Vallarta of Mexico. On 23 July 1974 the Committee agreed that when it held its informal meetings to consider items 13 and 14 it should be under the chairmanship of Mr. Cornel Metternich of the Federal Republic of Germany.

9. During the general discussion held in the Committee, 43 delegations made statements on item 12 and 42 delegations made statements on items 13 and 14. Representatives of several specialized agencies of the United Nations and other international organizations, among them UNESCO, UNEP, IMCO and IOC, made statements regarding subjects relevant to the mandate of the Committee.

V. WORK OF THE THIRD COMMITTEE AT ITS INFORMAL MEETINGS

10. The two Chairmen of the informal meetings of the Committee on item 12 and items 13 and 14 made regular weekly reports to the Committee on progress made. These reports were the personal assessments of the Chairmen and were not binding on any delegation. The informal meetings also met as drafting and negotiating groups. At the end of the Conference session in Caracas the two Chairmen transmitted notes to the Chairman of the Committee describing the work done during the informal meetings. The texts of these notes are contained in document A/CONF.62/C.3/L... and A/CONF.62/C.3/L... respectively. The Chairmen also transmitted texts of draft articles whether agreed upon or with alternates in some cases, prepared in the informal meetings of the Committee. These texts are found in document A/CONF.62/C.3/L... as regards item 12 and for items 13 and 14 in document A/CONF.62/C.3/L...

VI. FUTURE WORK

11. The Third Committee made progress at this session of the Conference towards completion of the mandate assigned to it by the Conference. It therefore recommends that the opportunity should be provided for it to continue this work at a further session or sessions with a view to completing the drafting of articles dealing with the preservation of the marine environment, scientific research and development and transfer of technology.

U N I T E D N A T I O N S

Press Section
Office of Public Information
United Nations, N.Y.

(FOR USE OF INFORMATION MEDIA -- NOT AN OFFICIAL RECORD)

Press Release SEA/146
28 August 1974

THIRD COMMITTEE OF LAW OF SEA CONFERENCE RECEIVES NEW PROPOSALS; CONCLUDES WORK AT CARACAS SESSION

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The Third Committee (marine environment, research and technology) of the Third United Nations Conference on the Law of the Sea wound up its work yesterday (27 August) in Caracas, with a warning by its Chairman, Alexander Yankov (Bulgaria), to prepare "for a new stage of negotiations".

During the four-hour meeting, the Committee received two new proposals on preservation of the marine environment and marine scientific research, one presented by Norway and another by the Netherlands in the name of a group of 17 nations.

At the meeting, the Committee also heard oral reports by the Chairmen of the informal working groups on their work. It also considered a final document, drawn up by the Rapporteur of the Committee, Abdel Magied A. Hassan (Sudan), which contained a "statement of the activities of the Third Committee".

Finally, at the request of India, the United Nations Environment Programme (UNEP) was asked to carry out a study containing a report of its activities on the global monitoring system of the marine environment which would be submitted at the next session of the Conference.

Another proposal, also requested by India, called for a request to the Intergovernmental Maritime Consultative Organization (IMCO) to carry out a study aimed at determining the maritime areas of particular interest for coastal States within the economic zone and which would require greater protection. This was subsequently withdrawn by the sponsoring country.

Preservation of Marine Environment and Scientific Research

PER TRESSELT (Norway) submitted a draft on the preservation of the marine environment relating to the problem which arises when human activities disturb the ecological balance of this environment by introducing into it living organisms, plant or animal, which have not existed before in the marine medium.

(more)

He said that States should not permit or engage in this kind of interference. If there was any uncertainty about the effects of any proposed activity of this nature, it would be reasonable for the State concerned to consult with other interested States and the appropriate international organizations; they should provide for measures against accidental disturbances of the natural state of the marine environment and take suitable measures for the restoration of the status quo ante, should that occur.

He stressed that the present issue was separate from that of pollution of the marine environment, and that the introduction of new species through sewage or run-offs from land should be dealt with within the context of provisions for the prevention of pollution.

J.A. WALKATE (Netherlands) submitted a proposal on marine scientific reserach which was co-sponsored by Austria, Belgium, Bolivia, Botswana, Denmark, Federal Republic of Germany, Laos, Lesotho, Liberia, Luxembourg, Nepal, Paraguay, Singapore, Netherlands, Uganda, Upper Volta and Zambia.

He said that the fundamental article of the draft was the first one, which defines marine research as being any study of related experimental work in the marine environment, excluding industrial exploration and other activities aimed directly at the exploitation of marine resources, designed to increase man's knowledge and conducted for peaceful purposes.

The draft set out as a matter of principle the right of all States, coastal and land-locked or shelf-locked, as well as appropriate international organizations, to conduct marine scientific research, on an equal basis.

The proposal presented by the Netherlands produced comments from the representatives of India, Colombia, Kenya, Yugoslavia, Madagascar, Argentina, Pakistan and the Libyan Arab Republic. In general they considered that many of the co-sponsors of that proposal were members of the "Group of 77" and that they had expressed their consensus with the draft (document A/CONF.62/C.3/L.13) which had been presented by Colombia as President of that Group, and were now assuming a position opposed to the one they had adopted within the "Group of 77".

The representatives of Singapore and Lesotho explained that their co-sponsorship of the draft presented by the "Group of 77" did not definitely commit their delegations to what the document specifically states.

FERNANDO GAMBOA (Chile) said that the proposal by his delegation on the creation of a regional organization that would give aid in cases of accidents that carry the inherent danger of marine pollution, would be presented at the next round of meetings of the Conference. He said that the creation of a fund financed by oil consortiums was contemplated.

(more)

Press Release SEA/146
28 August 1974

Reports by Working Group Chairmen

JOSE LUIS VALLARTA (Mexico), Chairman of the Working Group on the Preservation of the Marine Environment, said that 11 plenary meetings of the Group had been devoted to the discussion and study of formal proposals and informal drafts presented to the Sea-Bed Committee. At the same time, and in accordance with the method of work adopted, an informal Drafting and Negotiating Committee was established, open to participation by all delegations. This group also met 11 times.

The draft proposals prepared by the Sea-Bed Committee, he went on, had been reviewed and several delegations had submitted either amendments or new drafts. The result of this work had been submitted to the Committee in one document, which contained common texts. These dealt with basic obligations, such as the rights of States to explore their own natural resources, special obligations such as not to transfer pollution from one zone to another, world and regional co-operation, technical assistance, taking into account economic factors in order to determine if States had complied with their obligations, and on the economic factors that are related to land-based pollution of the marine environment.

Regarding one of the principal topics of the informal meetings, identified as "norms, jurisdiction and application", he said, there was insufficient time to prepare common texts.

CORNEL METTERNICH (Federal Republic of Germany), Chairman of the Working Group on Scientific Research and Transfer of Technology, said that 10 closed meetings had been held to discuss proposals that had been presented to the Sea-Bed Committee.

With regard to those proposals, he said, the Secretariat at the request of the Committee had prepared a comparative table on the following topics: definition and objectives of marine scientific research, the pursuit and encouragement of such activity, international and regional co-operation in research, international institutions of the ocean spaces, juridical situation of scientific installations and scientific research of the marine environment, solution of controversies, and obligations under the United Nations Charter and other international treaties.

The Working Group had also formed an informal Drafting and Negotiating Group open to all, which had held 11 meetings and which managed to draft a number of general principles for the encouragement of scientific research, and consolidated articles in relation to international and regional co-operation. Regarding other matters, principally those related to the development and transfer of technology, he added, there had been no time to take them up.

(more)

Rapporteur's Report to Committee

ABDEL MAGIED A. HASSAN (Sudan), the Committee Rapporteur, presented a brief report on the Committee's activities. He said it was "not a report in the formal or traditional sense" since its aim was to serve as a guide so that "the delegations and the Committee in general could continue the study of its topics without delay at the next round of sessions".

The document contains a brief summary which goes back to the creation of the Third Committee and mentions its future work; it ends by saying that at the Caracas session, the Committee achieved "some progress". It mentions the Committee's mandate, the topics assigned to it, documentation and the organization of its agenda. The report also contains a list of 12 formal proposals submitted to the Committee.

Final Words by Committee Chairman

ALEXANDER YANKOV (Bulgaria), Chairman of the Third Committee, said that personally, and without detailing all the work done by the Third Committee, the activity "appeared helpful", and would serve as a guide for future tasks. He stated that in a relatively short time "appreciable progress" was made on the items assigned to the Committee.

He stressed the spirit of understanding and co-operation which had marked this session. "There has been a spirit of give and take", he said, and expressed hope that this same spirit would prevail in the task ahead in order to overcome future obstacles.

The method of work adopted at the Caracas session had been generally accepted and this was an encouraging sign for the future, he went on. In many cases, agreement had been reached and in other cases, alternatives had been submitted.

"We have plenty of work to take home with us", he said, and he asked the delegates to get ready for "a new round of negotiations", in a clear reference to the next session in Geneva. He ended by thanking the delegations for their co-operation and understanding and expressed his gratitude to the Chairmen of the informal Working Groups and the United Nations Secretariat.

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UNITED NATIONS

Press Section
Office of Public Information
United Nations, N. Y.

(FOR USE OF INFORMATION MEDIA — NOT AN OFFICIAL RECORD)

Press Release SEA/143
28 August 1974

LAW OF SEA CONFERENCE RECOMMENDS THAT NEXT SESSION BE HELD IN GENEVA, BEGINNING 17 MARCH, WITH FINAL SIGNING SESSION IN CARACAS

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The Third United Nations Conference on the Law of the Sea decided without objection yesterday morning, 27 August, in Caracas to request the General Assembly to schedule the next session of the Conference in Geneva from 17 March to 3 or 10 May. It also recommended that the final formal session of the Conference be held in Caracas for the purpose of signing the Final Act and other Conference documents.

The Conference also approved arrangements for the final documents of its current session in Caracas, including written statements on the work of each main Committee and on the plenary meetings as well as oral statements by Committee Chairmen and the Conference President, H. Shirley Amerasinghe (Sri Lanka), summing up the work accomplished to date.

Also approved were plans for the closing meeting of the Conference on Thursday, 29 August, at which the heads of regional groups are to express thanks to Venezuela for being host to the Conference; the Foreign Minister of Venezuela, Efrain Schacht Aristeguieta, will respond; and the Conference President will make a closing address. The flags of participating countries and of the United Nations will then be lowered in a ceremony outside Parque Central, the Conference site.

Yesterday's decisions were taken on the recommendation of the General Committee, with one change: the Conference agreed to delete any reference to a date for the final session in Caracas. The General Committee had recommended on 26 August that that session be held "if possible" next July/August. Yesterday morning, however, after the representatives of the Soviet Union, France and the Federal Republic of Germany said it was too soon to fix a date for the final session, the Conference agreed to a suggestion by its President that the reference to dates be omitted.

There was no other discussion on the Committee's recommendations, which were presented orally by the Rapporteur-General, Kenneth O. Rattray (Jamaica).

(more)

On another matter, Peter Donige (Australia), who said he was speaking for Papua New Guinea (a United Nations Trust Territory under Australian Administration), proposed that the Conference recommend to the General Assembly that Papua New Guinea be invited to attend the next session of the Conference as a full participant if it was independent and as an observer if it was not. He remarked that the work of the Conference would deeply affect his country.

The proposal was supported by C.D. Beeby (New Zealand) and Willem Riphagen (Netherlands), who suggested that it be broadened to cover other Territories nearing independence, such as the Cook Islands and Niue, associated with New Zealand, and Surinam and the Netherlands Antilles, now part of the Kingdom of the Netherlands.

The President said an appropriate formula would be presented to the Conference at its next meeting.

At the request of John R. Stevenson (United States), a statement by Andon Amaraich, a Senator in the Congress of Micronesia who is a member of the United States delegation to the Conference, was circulated to delegations. It sets forth the position of Micronesia on various issues before the Conference.

In another development, Bernardo Zuleta Torres (Colombia) announced that the "Group of 77" developing countries had agreed to support the offer of Jamaica to make its capital, Kingston, available as the headquarters of the proposed international sea-bed authority. The offer was made by Jamaica in a general statement to the Conference on 3 July. The President said that the proposal would be taken up at an appropriate time.

With regard to the question of whether a full eight weeks will be available for the Geneva session of the Conference, Constantin A. Stavropoulos, Special Representative of the United Nations Secretary-General to the Conference, read out to the meeting yesterday morning a message he had received from the Director-General of the World Health Organization (WHO), offering to consult members of the WHO Executive Board about a possible postponement of the opening of next year's session of the World Health Assembly from 6 to 12 May so as to enable the Conference to have adequate meeting space and interpretation facilities at Geneva. Mr. Stavropoulos said he had no doubt that such an arrangement would permit the Conference to meet up to 10 May.

The President said the fact that the Conference had changed its original plan to meet next year in Vienna did not imply lack of appreciation of the offer by the Austrian Government to act as host. He expressed appreciation for that invitation, "which in the circumstances we are unable to accept at the moment".

(more)

He added that there had been a widespread desire expressed in the General Committee that the Conference should hold as many meetings as possible next year to complete its work. He suggested that the question of enabling the Conference to hold additional meetings be left to the General Assembly's Fifth Committee (Administrative and Budgetary).

On another point, Shabtai Rosenne (Israel) reiterated his delegation's reservations and objections about the Conference's decision of 12 July to invite representatives of national liberation movements to participate in the Conference as observers. He spoke in connexion with the Conference's decision to report that and other decisions to the General Assembly.

The Conference was to meet again at 9 a.m. Wednesday, 28 August, to consider the report of its Credentials Committee.

U N I T E D N A T I O N S

Press Section
Office of Public Information
United Nations, N.Y.

(FOR USE OF INFORMATION MEDIA -- NOT AN OFFICIAL RECORD)

Press Release SEA/143/Corr.1
28 August 1974

LAW OF SEA CONFERENCE RECOMMENDS THAT NEXT SESSION BE HELD IN GENEVA, BEGINNING 17 MARCH, WITH FINAL SIGNING SESSION IN CARACAS

CORRECTION

In Press Release SEA/143 of 28 August, the second paragraph on page 3 should read:

"On another point, Shabtai Rosenne (Israel) reiterated his delegation's reservations and objections about the Conference's decision of 12 July to invite representatives of certain national liberation movements to participate in the Conference as observers. He spoke in connexion with the Conference's decision to report that and other decisions to the General Assembly."

UNITED NATIONS

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Press Release SEA/147
28 August 1974

LAW OF SEA CONFERENCE APPROVES REPORT OF CREDENTIALS COMMITTEE, AGREES TO PRESIDENT'S LETTER REPORTING ITS DECISION

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

The Third United Nations Conference on the Law of the Sea approved without a vote this morning, 28 August, in Caracas a report by its Credentials Committee which stated that, subject to observations made in the Committee about the credentials of certain delegations to the Conference, "the Committee considered that the delegations present at the second session of the Conference should be seated".

The report lists 138 countries which have sent credentials or lists of their representatives to the current session in Caracas.

At this morning's meeting, several delegations expressed reservations about the representation of the Khmer Republic, the Republic of Viet-Nam and South Africa at the Conference.

In another action, the Conference agreed to the text of a letter which the President of the Conference, H. Shirley Amerasinghe (Sri Lanka), will send to the President of the United Nations General Assembly, informing him of the decision and recommendations of the Conference on organizational matters.

Mentioned in the letter is the Conference's earlier decision to invite representatives of certain national liberation movements to participate as observers, as well as a new recommendation to the Assembly that Papua New Guinea, the Cook Islands, Surinam and the Netherlands Antilles, which are nearing independence, be invited to attend future sessions of the Conference as observers if they were not yet fully independent or as full participants if they had achieved independence.

Proposals to that effect concerning Territories on the verge of independence were made yesterday by a Papua New Guinea member of the Australian delegation and by the representatives of New Zealand and the Netherlands, but action was put off until today so that the recommendation could be put in writing.

(more)

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At the suggestion of the President, delegates rose in a moment of silent tribute to the members of the United Nations Peace-Keeping Force in Cyprus (UNFICYP) who had been killed or wounded in the recent fighting. Citing reports of seven killed and 62 wounded among UNFICYP personnel, the President spoke of "these good and valiant men who volunteered to serve the cause of international peace and humanity and gave their lives to the cause, and also to those who have been wounded in the line of duty". He extended condolences to the families of those killed and expressed hope that the injured would recover.

The President also paid tribute to Gonzalo Alcivar (Ecuador), Soubhi Khanachet (Kuwait) and others who had died since their participation in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction, the preparatory body for the Conference.

In today's discussion of the report of the Credentials Committee, the representatives of Romania, Cuba, Yugoslavia, the Soviet Union, Algeria, Egypt and Albania expressed regret that the Provisional Revolutionary Government of the Republic of South Viet-Nam had not been invited to the Conference. Many of them noted that the Democratic Republic of Viet-Nam had declined to attend for that reason. Most of those speakers also said that the "Saigon authorities" had no right to represent South Viet-Nam.

The same speakers also objected to the presence of the "Lon Nol regime" of Phnom-Penh, declaring that Cambodia should be represented by the Royal Government of National Union headed by Prince Norodom Sihanouk. They also stated that the racist regime of South Africa did not represent the people of that country.

In reply, Nguyen Huu Chi (Republic of Viet-Nam) said he wished to refute the allegation that his Government did not represent the people of Viet-Nam. He added that last year's peace agreements on Viet-Nam did not mention two territories or governments in that area.

Mrs. Nhoung Penh (Khmer Republic) said it was absurd to contend that a government-in-exile could represent her country. She noted that the matter of credentials had been decided by the General Assembly last year.

The following countries are listed in the Credentials Committee's report as participating in the Caracas Conference:

Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussia, Canada, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Dominican Republic, Ecuador,

(more)

Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Viet-Nam, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sri Lanka, Sudan Swaziland, Sweden, Switzerland, Syria, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, USSR, United Arab Emirates, United Kingdom, United Republic of Cameroon, United Republic of Tanzania, United States, Upper Volta, Uruguay, Venezuela, Western Samoa, Yemen, Yugoslavia, Zaire and Zambia.

The Conference will meet again at 9 a.m. tomorrow, 29 August. The President expressed hope that that would be the final meeting of the Caracas session.

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UNITED NATIONS

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Round-up of Session

Press Release SEA/150
30 August 1974

CARACAS SESSION OF THIRD UNITED NATIONS CONFERENCE ON LAW OF SEA

20 JUNE - 29 AUGUST 1974

Begins Drafting Articles for New Law of Sea Convention

(The following was received from a United Nations Information Officer attending the Conference in Caracas.)

A start towards a new international convention that would lay down an agreed body of legal rules for the world's oceans was made at a 10-week session in Caracas of the Third United Nations Conference on the Law of the Sea, 20 June to 29 August.

Delegates from 138 nations took part in the session, presenting a wide range of views and seeking to bring together their varying national positions in a set of draft articles for the new convention. After hundreds of formal and informal meetings, three main Committees of the Conference produced preliminary texts of more than 250 draft articles or provisions, many of them in competing alternative versions

To resolve the many remaining differences, the Conference recommended to the United Nations General Assembly, which convened it, that a further session of up to eight weeks be held at Geneva next year, from 17 March to 3 or 10 May.

In response to the views of a number of representatives who wished to recognize Latin America's contribution to new trends in international maritime law and the arrangements made by Venezuela for the session just ended, the Conference agreed that its final session -- for which it did not specify a date — should be held in Caracas for the purpose of signing the documents which will emerge.

In a statement to the Conference summing up its results, its President, H. Shirley Amerasinghe (Sri Lanka), declared: "There has so far been no agreement on any final text on any single subject or issue, despite the lengthy deliberations in the Sea-Bed Committee that formed the prelude to our discussions in the Conference itself. We can, however, derive some legitimate satisfaction from the thought that most of the issues or most of the key issues have been identified and exhaustively discussed and the extent and depth of divergence and disagreement on them have become manifest."

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After a series of general statements (28 June-15 July), in which 115 countries presented their views on the main issues before the Conference, the three Main Committees, each composed of representatives of all countries participating in the Conference, worked on treaty texts covering the subjects assigned to them.

The results were the following:

-- The First Committee, concerned with a legal regime (body of rules) and machinery (world-wide authority) for the area of the sea-bed beyond the jurisdiction of individual States, produced in informal meetings a revised set of 21 draft articles on a future sea-bed regime. Under its auspices, negotiations began on what were identified as the main unresolved issues -- what entities (such as Government agencies, private firms or the authority itself) should be entitled to explore and exploit the area for sea-bed minerals, and under what terms and conditions. Still to be tackled are the structure and functions of the sea-bed authority.

-- The Second Committee dealt with a wide range of sea-law issues from the territorial sea and the proposed economic zone to the rights of land-locked countries and the special problems of archipelagos. It set down in a series of working papers some 230 provisions, drafted in treaty language and reflecting delegates' proposals, on the main items before the Committee. The Committee began a second reading of some of those papers, seeking to narrow down areas of disagreement and reducing the number of alternative versions. Ahead of it lies the task of reaching agreement on what many representatives have referred to as a "package deal" accommodating the varied interests represented at the Conference.

-- The Third Committee, in informal meetings, worked out texts for draft articles on preservation of the marine environment and on marine scientific research. Regarding environmental matters, its texts include fully agreed articles on technical assistance and on the obligation not to transfer pollution from one area to another, as well as five other draft articles with varying numbers of alternatives or amendments; however, it did not have time to deal with the crucial issue of standards, jurisdiction and enforcement of anti-pollution rules. On research, it agreed to articles on general principles for the conduct and promotion of research and on international co-operation in that area; but on the key issues of the right to conduct research and the need for coastal State consent to research conducted off its shores, the Committee was able only to reduce the number of alternative proposals from five to four.

The drafting work of the Committee was carried on in informal, closed meetings and did not reach the stage of formal decision. In all three Committees the drafting and negotiating process was preceded by debates at which delegations presented their positions.

The work of the Conference to date was not reviewed in plenary meetings of the Conference. However, each Committee produced a brief statement of its activities (taking the place of a report), and the Chairman of each summed up the results to date in an oral statement to his Committee. The President of the Conference made an over-all statement at the final meeting.

(more)

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30 August 1974

The Caracas session was the second held by the Conference, the first having been an organizational session held last December at United Nations Headquarters in New York. The first week of the session was taken up with a discussion of the draft rules of procedure, and particularly the question of what voting procedure should be followed when it came time for the Conference to take decisions. The problem was resolved on 27 June when the Conference adopted its rules by consensus, within the deadline fixed at the organizational session for resolution of the matter.

The rules on decision-making set out procedures for deferring votes on substantive questions to permit efforts to resolve differences, and specify the majorities required for the adoption of decisions in the Committees and the plenary Conference. They provide for what was described as a "cooling off period" prior to any vote on a substantive matter, during which the President or Chairman of the body concerned would seek "to facilitate the achievement of general agreement" on the point or points at issue.

If no further agreement was reached, and unless a further deferment was decided on, there would first have to be a determination, by the same majority as is required for substantive decisions, "that all efforts at reaching general agreement have been exhausted". Only then could a vote on the substantive issue take place.

The majority required by the rules for the adoption of a substantive decision is two thirds of those present and voting in plenary and a simple majority of those voting in Committee, provided that the majority in plenary includes at least a majority of States participating in the Conference.

The Conference also endorsed a statement by its President that it should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus had been exhausted.

(The Conference's rules of procedure, incorporating later revisions, are contained in document A/CONF.62/30/Rev.1.)

The Conference, which by decision of the General Assembly is open to all States that are Members of the United Nations or of any of its specialized agencies, changed its rules of procedure on 12 July to allow the participation as observers of representatives of national liberation movements recognized by the Organization of African Unity and the League of Arab States. In accordance with that decision, which was taken without a vote, invitations were extended to 12 liberation movements -- in Angola, the Comoro Islands, the French Territory of the Afars and Issas (Somali Coast), Mozambique, Namibia, Palestine, the Seychelles, South Africa and Southern Rhodesia (Zimbabwe).

The Conference also asked the General Assembly to invite Papua New Guinea, the Cook Islands, Surinam and the Netherlands, which are nearing independence, to attend future sessions of the Conference as observers if they were not yet fully independent or as full participants if they had achieved independence.

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The task of the Conference, as set out in General Assembly resolution 2750 C (XXV) of 1970, is to adopt a convention dealing with all matters relating to the law of the sea. Preparations for the Conference were made over the five years since 1968 by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, whose reports form part of the documentation for the Conference and contain many of the proposals still before delegates in Caracas and at later sessions. (For further background on the Conference see Press Release SEA/18 of 28 May.)

The General Assembly, at its session in New York beginning next month, will consider the recommendations of the Conference in regard to its 1975 meetings and on other organizational matters.

Following are summaries of the work in the main Committees:

First Committee (Sea-Bed Regime and Machinery)

The First Committee, at 17 formal and 23 informal meetings between 10 July and 27 August, concentrated on the future legal regime to govern the sea-bed area beyond national jurisdiction. This is the first of the two main aspects before it, the other being the machinery of the proposed international sea-bed authority.

After a general discussion (11-17 July), in which 66 delegations took part, the Committee held three weeks of informal meetings in an effort to reduce the number of alternative versions of draft articles on the sea-bed regime. The result was a set of 21 draft articles, most of them still having two or more alternatives (document A/CONF.62/C.1/L.3 and Corr.2 and 6).

The Committee then dealt in greater detail with three key issues over which disagreement persisted: the system of exploration and exploitation (referred to as "who may exploit the area"), the conditions of exploration and exploitation, and the economic implications of sea-bed mining.

On the question of "who may exploit", there were four alternatives before the Committee for draft article 9, which deals with that matter. Two of these, favoured by a number of developed countries, were originally presented in the Sea-Bed Committee; they would provide for exploitation by States, or by enterprises under their authority or sponsorship, subject to regulation by the sea-bed authority.

The third of these alternatives was presented during the session on behalf of the "Group of 77" developing countries. It would provide that all exploration and exploitation in the area, as well as related activities such as scientific research, should be conducted directly by the authority, but it would enable the authority to "confer certain tasks to juridical or natural persons (including private firms), through service contracts or association or through any other such means it may determine which ensure its direct and effective control at all times over such activities".

(more)

The fourth alternative, also presented during the session, would authorize the sea-bed authority to enter into legal arrangements for exploitation with States and natural or juridical persons, which would be obliged to comply with the sea convention and the authority's regulations.

Four proposals were presented on the conditions under which exploration and exploitation should be permitted: by the United States, the "Group of 77", eight countries of the European Economic Community (EEC) and Japan, respectively (documents A/CONF.62/C.1/L.6-9).

Christopher W. Pinto (Sri Lanka), Chairman of the Committee's informal meetings, in an oral progress report to the Committee on 19 August, said the proposals by the United States and the EEC countries would give the authority substantial regulatory power, but "control over an operation would seem to lie more with the operator himself" or the operator and a sponsoring State, and the convention would embody definite limits on the authority's discretionary powers.

Under the developing countries' proposal, he said, the authority would exercise direct and effective control at all times whenever it entered into arrangements with others for sea-bed operations, and it would be guided by a determination not to let sea-bed resources fall prey to selfish interests.

After considering those proposals in its informal meetings, the Committee set up a 50-member Working Group, open to all States at the Conference, to pursue negotiations on the 21 draft articles and particularly on article 9 ("who shall exploit") and the conditions of exploration and exploitation. The Group held six meetings (21-26 August) and began by discussing article 9. Its Chairman, Mr. Pinto, reporting to the Committee at its closing meeting, said the Group had laid "a sound foundation ... for further work".

As regards the 20 other draft articles on the sea-bed regime, the Chairman of the informal meetings reported that "considerable progress" had been made on article 4, which would exclude States and persons from exercising sovereignty over or appropriating any part of the sea-bed area, or from exercising any rights over or with respect to (the exact phrase remains to be determined) sea-bed resources. Also, only one version remained for the first paragraph of article 7, specifying that exploration and exploitation of the area "shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries".

Mr. Pinto reported that the number of alternatives for article 2, declaring the area and its resources to be "the common heritage of mankind", had been reduced from three to two. Changes had also been made in the three alternatives of article 3, on the activities covered by the regime; in the two alternatives of article 10, on general norms regarding exploitation; and in the single text for article 13, on protection of the marine environment. A revised version was submitted for the second paragraph of article 7, on safeguarding the participation of geographically disadvantaged States in sea-bed activities. A third alternative had been added for article 15, on the rights of coastal States.

The Chairman of the informal meetings said that no improvement had been possible in the position regarding the following: articles 5, on the use of the area by all States without discrimination (one version with two suggested additions); 6, on the general conduct of States in the area and in relation to the area (two alternatives); 8, on preservation of the area exclusively for peaceful purposes (one version with most of its wording disputed); 11, on scientific research (three versions); 12, on transfer of technology (four versions); 14, on protection of human life (one version); 16, on the legal status of water and air space above the area (one version with most of its wording in dispute and a proposal to omit it altogether); 17, on accommodation of activities in the marine environment and in the area (one version with one phrase in dispute); 18, on responsibility to ensure observance of the international regime and liability for damages (one text with several phrases in dispute); 19, on access to and from the area (one text with several phrases in dispute); 20, on archaeological and historical objects (one version with much of its wording in dispute and a proposal to omit the article); and 21, referring to another article in the convention on settlement of disputes (one version).

Mr. Pinto said the Committee had not wished to discuss at this stage article 1, defining the limits of the international sea-bed area (four versions).

Parallel with its informal work, the Committee held a number of formal meetings to discuss the economic implications of sea-bed mining with special regard to the possible harmful effects on land-based producers among the developing countries which produced the minerals found on the sea-bed. The discussion took place in the light of two United Nations reports predicting that cobalt and manganese prices might be affected by sea-bed production but that there would be lesser impact on world markets of the two other metals obtained from sea-bed nodules -- nickel and copper. (Summaries of the reports and their conclusions are in document A/CONF.62/C.1/L.5.)

Varying views were expressed by delegates as to how much, if at all, sea-bed production would hurt land-based producers, and as to what kind of powers the sea-bed authority should have to prevent or diminish such adverse effects.

Giving his personal views at the end of the debate, the Committee Chairman, Paul Bamela Engo (United Republic of Cameroon), concluded that the best solution would be to create an organ in the sea-bed authority that would study the problem constantly and "take appropriate measures to meet any problems promptly if and when they occur", rather than to attempt to work out detailed treaty provisions to guarantee that no harm would be caused to land-based producers.

In another development with regard to the proposed sea-bed authority, Jamaica offered its capital, Kingston, as the site for the future headquarters of the authority and the "Group of 77" developing countries agreed to support the offer.

In a closing assessment of the First Committee's work at Caracas, its Chairman, Mr. Engo, declared that the "central issue" before the Committee -- who may exploit the sea-bed, is more ripe for negotiations now than it ever was. Beginning its work in the face of divergent opinions and "monumental difficulties", he said, the Committee had set in motion the processes of negotiations and had "continued to remove obstacles". Its work in "tidying up" the text of the 21 draft articles on a sea-bed regime "exposes more than ever the main issues which must be negotiated".

Second Committee (General Aspects of Sea Law)

The Second Committee was assigned 15 of the 24 items before the Conference, covering the legal regimes that are to be created for various ocean spaces from the territorial sea out to the high seas, as well as the special interests and needs of particular groups of countries such as land-locked States and archipelagos.

As the Committee's Chairman, Andres Aguilar (Venezuela), pointed out in his closing statement on 28 August, those items were some of the most difficult and controversial matters being considered by the Conference. Moreover, he noted, the progress achieved on those subjects by the Sea-Bed Committee had been noticeably less than on other matters before it.

Consequently, the Committee devoted most of its time to a presentation of individual national positions and proposals at its 46 formal meetings (3 July-28 August), and to an effort in informal sessions to set down the various positions in an orderly manner and in treaty language, so as to focus the future discussion and negotiation on fundamental issues. The Committee held more meetings and received far more formal proposals -- more than 80 -- than any other Committee of the Conference.

In the first stage of its work, the Committee debated each of the items on its agenda, hearing as many as 99 statements on a single item (the proposed exclusive economic zone). When this formal debate was over for each item, the officers of the Committee, in order to clarify and consolidate the different and often opposing positions, prepared 13 informal working papers which reflected in generally acceptable formulations the main trends that had emerged on the various subjects and issues.

Delegations then commented on these papers in the informal (closed) meetings, and, whenever necessary, revised versions were prepared. The Committee agreed not to take any decision until all closely interconnected items had been fully considered.

The working papers contain a series of draft provisions, most with two or more alternative formulas, organized according to the items and sub-items dealt with by the Committee. They do not indicate which States support each formula or the degree of support it received. The Committee decided to publish these papers in an annex to its "statement of activities" yet to be issued.

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30 August 1974

As it neared the end of the first stage of its work, the Committee decided on 15 August that its next stage should be a second reading "to reduce, as far as possible, the number of alternative formulations in the working papers". It agreed that, while delegates would continue to be able to introduce proposals at formal meetings, most of the second stage work would be carried out at informal meetings. The Committee had time to complete a second reading of only the working paper on the territorial sea.

Forty-four provisions were formulated on the territorial sea, more than for any other single topic before the Committee. They cover the nature and characteristics of this sea area, historic waters, limits, innocent passage of ships, and freedom of navigation and overflight resulting from the question of plurality of regimes in the territorial seas.

On the contiguous zone adjacent to the territorial sea, three provisions were set out, on the limits of the zone and on the rights of coastal States with regard to customs, fiscal, immigration and sanitary regulations.

Straits used for international navigation were the subject of 14 provisions, covering innocent passage and other related matters including the right of transit.

The continental shelf, an area of sea-bed and subsoil beyond but adjacent to the territorial sea, was the subject of 20 provisions. They deal with a definition of the term, the nature and scope of the sovereign rights of coastal States over the shelf, duties of States, the outer limit of the shelf, delimitation between States, natural resources, the regime for waters superjacent to the shelf, and scientific research.

The concept of an exclusive economic zone beyond the territorial sea, where coastal States would exercise certain rights over resources and perhaps other matters, was dealt with in 37 provisions. They cover the nature and characteristics of the zone, duties of States, international standards regarding the safety of navigation, land-locked and geographically disadvantaged States, revenue sharing, resources of the zone, freedom of navigation and overflight, regional arrangements, limits, fisheries, the sea-bed within national jurisdiction, prevention and control of pollution and other hazards to the marine environment, and scientific research.

Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea were the subject of 11 provisions, concerning the nature and characteristics of such jurisdiction, sea-bed resources, fisheries, prevention and control of pollution and other hazards to the marine environment, and international co-operation on the study and rational exploitation of marine resources.

On the high seas, the Committee set out 41 provisions, dealing with the nature and characteristics of the area, rights and duties of States, freedom of the high seas, management and conservation of living resources, slavery, piracy, drugs and hot pursuit.

(more)

Land-locked countries were the subject of 19 provisions, dealing with general principles of the law of the sea concerning such countries, as well as their rights and interests in regard to free access to and from the sea, freedom of transit, equality of treatment in the ports of transit States, free access to the international sea-bed area beyond national jurisdiction, participation in the international regime for that area, and the living resources of the sea.

The rights and interests of other "geographically disadvantaged States", particularly as regards fisheries, were dealt with in five provisions, which include an attempt to define the term.

No provisions were formulated on the rights and interests of States with broad continental shelves.

Archipelagos were the subject of 19 provisions, concerning the scope of the concept, its definition, the idea of straight baselines connecting the outermost islands of an archipelago from which the various zones under the jurisdiction of an archipelagic State might be measured, archipelagic waters, passage through those waters, and sealanes and traffic separation schemes.

Three provisions were drawn up on enclosed and semi-enclosed seas.

Artificial islands and installations were dealt with in 10 provisions, covering such islands and installations in the territorial sea, on the continental shelf, in the economic zone and on the high seas, as well as the duties of coastal States.

Six provisions were drawn up on the regime of islands, covering definitions, islands under colonial dependence or foreign domination or control, maritime spaces of islands, baselines and delimitations.

Finally, transmission from the high seas is dealt with in one provision.

In a concluding statement giving his personal views on the Committee's work (document A/CONF.62/C.2/L.86), the Chairman, Mr. Aguilar, stated: "The idea of a territorial sea of 12 miles and of an exclusive economic zone beyond the territorial sea up to a total distance of 200 miles is, at least at this time, the keystone of the compromise solution favoured by the majority of States participating in the Conference.

"The acceptance of this idea is, of course, dependent on a satisfactory solution of other issues, especially the issue of passage through straits used for international navigation, the outermost limit of the continental shelf and the actual retention of this concept, and last, but not the least, the aspirations of land-locked and other countries which, for one reason or another, consider themselves geographically disadvantaged. There are, in addition, other problems which must be studied and solved in connexion with this idea, for example, those relating to archipelagos and to the regime of islands in general.

"It is also necessary to go further into the matter of the nature and characteristics of the concept of an exclusive economic zone, a subject on which important differences of opinion still persist.

"On all these subjects substantial progress has been made which lays the foundations for negotiation in the intersessional period and at the next session of the Conference."

Mr. Aguilar added: "Much headway has been made at Caracas along the road which will lead us to the final goal."

Third Committee (Marine Environment, Research and Technology)

The Third Committee was able to agree at its informal meetings on some draft articles concerning two of the main topics assigned to it -- preservation of the marine environment and marine scientific research.

Regarding preservation of the marine environment (texts in document A/CONF.62/C.3/L.15), it reached agreement on a text setting out the obligation of States to "promote programmes of scientific, educational, technical and other assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution", as well as to "provide assistance, in particular to developing countries, for the minimization of the effects of major incidents which may cause serious pollution in the marine environment".

The text also provides that, to prevent marine pollution or minimize its effects, developing States should be granted preference in the allocation of funds and technical assistance by international organizations and in the utilization of their specialized services.

Another draft article agreed to informally provides that, "in taking measures to prevent or control marine pollution, States shall guard against the effect of merely transferring, directly or indirectly, damage or hazard from one area to another or from one type of pollution to another".

There was also agreement on four paragraphs of an article on global and regional co-operation, providing that a State learning of imminent or actual damage from pollution must notify other affected States, and competent international organizations must co-operate in eliminating the effects of pollution and preventing or minimizing the damage from such incidents. States would also be required to co-operate in studies and data exchange and in working out scientific criteria for rules and practices to prevent marine pollution.

Agreement was also reached on one paragraph of a text on "particular obligation", which would require States to "take all necessary measures to prevent, reduce and control pollution of the marine environment from any source using for this purpose the best practicable means at their disposal and in accordance with their capabilities".

Nearly complete consensus was reached on two other paragraphs of this article, listing the kind of measures to be taken against pollution and forbidding "unjustifiable interference" with legitimate uses of the marine environment. Three alternatives remained for a paragraph on action to ensure that marine pollution did not spread to areas beyond a State's jurisdiction.

There was disagreement as to whether the convention should contain an article on the right of States to exploit their own natural resources. Also, two alternatives remained for a provision according to which the economic and financial ability of a State and the stage of its economic development would be taken into account in considering whether it had discharged its obligations under the convention in regard to pollution; still another view was that the convention should not include such an article.

The Chairman of the informal meetings which considered environmental matters, Jose L. Vallarta (Mexico), reported in a note to the Committee (document A/CONF.62/C.3/L.14) that there had not been time to work out single texts or to reduce the number of alternatives on the "crucial item" of "standards, jurisdiction and enforcement". However, a method of work on this topic had been agreed to, according to which the various sources of marine pollution were to be examined. In connexion with pollution from vessels and dumping of wastes at sea, the respective rights and duties of flag States (States of registry of the ships concerned), coastal States and port States were to be considered.

With respect to marine scientific research, the informal meetings produced a partially agreed text on general principles and a draft on international and regional co-operation for marine scientific research, including exchange and publication of scientific data (document A/CONF.62/C.3/L.17).

Three paragraphs of general principles were agreed on. The first reads: "States shall endeavour to promote and facilitate the development and conduct of marine scientific research not only for their own benefit but also for the benefit of the international community in accordance with the provisions of this convention.

The second paragraph lists three principles: that marine research "shall be conducted exclusively for peaceful purposes", that it "shall not unduly interfere with other legitimate uses of the sea compatible with the provisions of this convention and shall be duly respected in the course of such uses", and that it shall comply with provisions for protecting the marine environment.

The third agreed paragraph states: "Marine scientific research activities shall not form the legal basis for any claim whatsoever to any part of the marine environment or its resources".

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The draft article on co-operation for research provides that States should promote international co-operation in marine research for peaceful purposes, co-operate to create favourable conditions for the conduct of research, and promote the flow of scientific data and information and the transfer of knowledge, in particular to developing countries. The text also calls for international communication of research programmes and objectives, and the publication and dissemination of results through international channels.

The Chairman of the informal meetings dealing with research, Cornel A. Metternich (Federal Republic of Germany), reported to the Committee (document A/CONF.62/C.3/L.16) that the number of alternative versions for an article on the conduct and promotion of marine scientific research had been reduced from five to four. He also reported that lack of time had made it impossible to consolidate the various proposals on the status of scientific equipment in the marine environment, and that the Committee had postponed consideration of proposals on international ocean space institutions as well as the topics of settlement of disputes and obligations under the United Nations Charter and other international treaties; it was also generally agreed to discuss at a later stage the definition and objectives of marine scientific research.

The Third Committee held 17 formal and 21 informal meetings (4 July-27 August). Before going into informal session it held a general debate on its three main topics, during which 85 statements were made. As the informal meetings proceeded, it met formally once or twice a week to receive proposals and hear comments on them. Twelve such proposals were presented -- seven on preservation of the marine environment, three on marine scientific research, and two on development and transfer of technology. The Secretariat produced a preliminary report on the acquisition and transfer of marine technology, suggesting possible action (document A/CONF.62/C.3/L.3).

The Committee Chairman, Alexander Yankov (Bulgaria), in a personal summation of the Committee's work given to the final plenary meeting, said the unresolved issues related in general to "the scope and extent of coastal State jurisdiction and the rights and duties of other States with regard to marine pollution control and marine scientific investigation".

Regarding environmental issues, he said existing agreement in that area "seems to be confined to only a few texts which, by their nature, need to be supplemented or qualified with more specific provisions where consensus remains as yet elusive".

In the area of marine pollution from land-based sources, dumping of wastes at sea and activities on the sea-bed, "the issues are more clearly set out, and the solutions offered in individual proposals are less sharply divided than would seem to be the case with regard to pollution from vessels". Not yet discussed were such issues as responsibility for damage, immunities and the settlement of disputes.

(more)

On marine research, he identified two opposing trends in the four proposals before the Committee on conduct and promotion of research: the requirement for prior consent and authorization by the coastal State in carrying out research activities by other States within areas under coastal State jurisdiction, and the doctrine of freedom of scientific research beyond the territorial sea. He noted that there had not been time to consider in informal meetings the third main item on the Committee's agenda -- development and transfer of technology.

Mr. Yankov's over-all assessment was that "we have achieved significant progress in the negotiating process and in our endeavours to prepare draft articles".

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For Release
3:30 PM Thursday, June 13

OCEAN MANIFESTO URGES CARACAS CONFERENCE SAVE OCEANS, AID DEVELOPMENT

Leading citizens of ten nations are calling on the United Nations Conference on the Law of the Sea to dedicate "a substantial portion" of the immense revenues from seabed mineral resources to international community purposes, including aid to developing countries. The Sea Conference begins its first working session in Caracas, Venezuela next Thursday (June 20th) with some 151 nations expected to participate in the ten week meeting.

Today (Thursday, June 13th at 3:00 PM at UN Headquarters in New York) a copy of the 1500-word Manifesto was presented to UN Under-Secretary-General C. A. Stavropoulos, Secretary-General Waldheim's Special Representative to the Law of the Sea Conference. The presentation was made by a small delegation of the signers headed by Major General Indar Jit Rikhye, President of the International Peace Academy, and former commander of the UN Emergency Force in the Middle East.

Other signers of the Manifesto include: ocean explorer Thor Heyerdahl of Norway; Charles W. Yost, former U.S. Ambassador to the UN; anthropologist Margaret Mead; Nobel laureate Jan Tinbergen, a Dutch economist; Per Haekkerup, former Foreign Minister of Denmark; Dr. Paul M. Fye, Director of the Woods Hole Oceanographic Institution; Ambassador Arvid Pardo of Malta and Lord Ritchie-Calder, a British scientist and author and Norman Cousins, editor of Saturday Review/World and President of the World Association of World Federalists. Dr. John J. Logue, Director of Villanova University's World Order Research Institute is serving as Secretary of the group.

Urging that the Conference take as its inspiration the idea of the oceans as "the common heritage of mankind", the signers stressed their belief that "an imaginative,

realistic approach to the complex and urgent ocean problem can reverse the present grave threat to the oceans' ecological system, provide an orderly and equitable means of managing ocean resources and furnish substantial revenues for international community purposes". The group urges that the revenues, which could amount to billions of dollars per year, be used not only to aid development but also to fund the fight against ocean pollution and to aid research for new sources of energy which are relatively free of pollution. It suggested that some of these ocean revenues might be made available for the general budget of the United Nations.

Addressing itself to one of the most central issues at the Conference, the so-called "limits" question, the Manifesto urged that the Conference put as large an area of the seabed as possible under the sole jurisdiction of a United Nations ocean regime. However, it adds that if, as many observers believe probable, the Conference agrees to a 200-mile "economic zone" or "patrimonial sea" between the national territorial sea and the proposed international area, the coastal state and UN agencies should share jurisdiction and revenues within this zone "in order to insure that world community interests are respected, particularly with respect to pollution, fishing, navigation and scientific research." It highlighted the crucial importance of revenue sharing within the 200-mile zone by stressing that within that area lie "an overwhelming proportion of the seabed revenues believed to be exploitable in the next decades."

As many developing countries have done, the Manifesto urges that the proposed UN ocean regime have "strong institutions" and substantial powers, including a power to exploit and explore the international seabed area. But the regime would not have a monopoly in the field since it would also license and regulate national and

state companies engaged in such exploration and exploitation. The Manifesto also urged that, the international community must have "unquestioned authority" to settle ocean disputes.

In several places the text elaborated the signers belief that "the oceans of the world are an indivisible and fragile ecological whole which cannot be dealt with on a unilateral basis. It called for an international agency to monitor the ocean environment, and protection for over-fishing and for the many forms of ocean pollution. It also urged the Conference to adopt a statement that "states are obligated to prevent marine pollution from any source" and to establish means and standards for the fulfillment of this obligation.

The Manifesto urged a reconciliation of the fishing states whether "coastal" or "distant-water" fishing states. It champions preservation of freedom of navigation and transit through international straits adding that any "limitations on those freedoms for control of pollution and traffic should be made by international agreement." It also called for freedom of scientific research, with due regard to the interest of coastal states.

In its final paragraphs the Manifesto stressed that the Caracas Conference "provides the opportunity for a major advance in global awareness, a strengthening of the sense of individual, national and international responsibility for and stewardship of planetary life and resources." It expressed the belief that a successful Caracas Conference would serve as a guide and inspiration to solutions to other pressing international problems. Because of the importance of the Conference the group urged the people in every country to "acquaint themselves with the preparations for the Conference and the problems and opportunities it represents."

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-- AN OCEAN MANIFESTO: AN APPEAL TO THE CARACAS CONFERENCE ON THE LAW OF THE SEA --

The Third United Nations Conference on the Law of the Sea provides an extraordinary opportunity to establish an effective system of order and justice in a large portion of the earth where rivalry among nations daily becomes more threatening and self-defeating. The delegates who come to Caracas in June of 1974 will decide whether the oceans of the world will be wisely managed and their immense resources, whether of minerals or living species, safeguarded and shared. For if chaos and shortsighted selfishness reign it will be to the detriment of our common human future.

We believe that an imaginative, realistic long-term approach to the complex and urgent ocean problem can reverse the present grave threat to the oceans' ecological system, provide an orderly and equitable means of managing ocean resources and furnish substantial revenues for international community purposes. That approach must reflect the proposition that the oceans of the world are an indivisible and fragile ecological whole which cannot be dealt with on a unilateral or piecemeal basis.

We believe that the Law of the Sea Conference should take as its inspiration the principle of "the common heritage of mankind" enshrined in the United Nations General Assembly's Declaration on the Seabed, unanimously adopted on December 17, 1970. In our view adherence to this principle would represent a major and significant development in international relations. We urge the Conference to demonstrate its faith in mankind by a full and realistic recognition and application of the common heritage principle. Adherence to it could reconcile national interests and broader interests which otherwise would be irreconcilable.

A realistic common heritage approach would require that a substantial portion of the revenues from seabed resources, both within and outside the continental margin, be dedicated to international community purposes. In our view those revenues should be used to help fund the struggle against ocean pollution, to make ocean technologies more widely available, and to contribute to the aid given by the United Nations to developing countries. It might also add revenues to the general budget of the United Nations. Seabed revenues might also be used to assist intensive international research, some of it through the United Nations University, on new sources of energy which are relatively free of pollution.

We believe that the common heritage principle can also furnish the inspiration for another essential part of the Conference's work, namely, securing international agreement as to the responsible uses of the ocean environment. That agreement should include provision for the monitoring of that environment and protecting it from overfishing and from the many forms of ocean pollution. It should also include a statement that states are obligated to prevent marine pollution from any source, and it should establish means and standards for the fulfillment of this obligation.

In our view the international seabed area under the sole jurisdiction of the United Nations international regime should be as large as possible, extending in as close to the 200-meter depth line as possible with, however some "distance provision" for those countries which, in effect, have no continental shelves. However, if the Conference should agree to a 200-mile "economic zone" or "patrimonial sea" between the national territorial sea and the proposed international area, we believe that it is essential that the coastal state share jurisdiction within this zone with the appropriate United Nations agencies in order to insure that world community interests are respected, particularly with respect to pollution, fishing, navigation and scientific research. It is important to stress that a 200-mile economic zone would include an overwhelming proportion of the seabed resources believed to be exploitable in the next decades.

We believe that in order to carry out its important purposes the United Nations ocean regime must have strong institutions based on equitable and democratic representation from all countries. If the regime is to be effective in implementing the common heritage principle, it must have substantial powers including power to license and regulate the exploration and exploitation of the international seabed area by states and private organizations. The regime

must have its own power to explore and exploit that area. In our view this arrangement would promote stability of expectations and security of investments. Most importantly, the United Nations international regime must have unquestioned authority to settle disputes. In short, there must be a legal system which protects and fosters the many but competing uses of the oceans. Provision for environmental impact review should be part of that agreement.

Among the special problems to which the Law of the Sea Conference must urgently address itself, always keeping in mind the common heritage approach, are the following:

a. Preservation and improvement of fisheries, with particular attention to the economic interests of coastal countries, but with provision for the interests of distant-water fishermen as well.

b. Protection of the interests of those countries which fear that increased production of seabed minerals may lower the prices for their land-based minerals. This would include adherence to the United Nations General Assembly's Moratorium on the exploitation of deep seabed mineral resources until the Conference works out an agreed system for exploiting those resources.

c. Preservation of the historic freedom of navigation and transit through international straits. Limitations on those freedoms for control of pollution and traffic should be made by international agreement taking into account the legitimate interests of the world community as well as those of coastal states.

d. Support for freedom of scientific research, with due regard for the interest of coastal states. For the benefit of all, we urge that the United Nations ocean regime commission and fund ocean research, establish a clearing house for worldwide dissemination of information and assist in the transfer of ocean technology to developing nations.

e. Coordination of the ocean activities of existing international agencies and encouragement, where appropriate, of regional solutions to ocean problems.

The Law of the Sea Conference provides the opportunity for a major advance in global awareness, a strengthening of the sense of individual, national and international responsibility for and "stewardship" of planetary life and resources. For these reasons we encourage peoples of all countries to acquaint themselves with the preparations for the Conference and the problems and opportunities it represents. We urge them to do this in their private capacities and in the governmental and nongovernmental organizations to which they may belong. And we urge them to communicate their views to all who will influence the Conference's decisions.

A successful Law of the Sea Conference based on the principle of the common heritage of mankind would establish the basis for responsible management of the global areas beyond the jurisdiction of nations. It would head off the possibility of a competitive and potentially dangerous struggle among states for the resources of the seas. And it would make a major and historic contribution to the realization of the high principles set forth in the preamble to the United Nations Charter. A Law of the Sea Conference which devised equitable, acceptable and workable responses to the present "ocean opportunities" would also promote international comity and serve as a guide and inspiration to solutions to other pressing international problems.

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UNITED NATIONS

Press Section
Office of Public Information

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Third Conference on Law of Sea
Caracas, Venezuela

Note No. 3
10 July 1974

NOTE TO CORRESPONDENTS

"Right here, in Caracas, some of the principal decisions that will affect the future of the human race will be made", Maurice F. Strong, Executive Director of the United Nations Environment Programme told correspondents at a press conference this morning.

He said that the Third United Nations Conference on the Law of the Sea was, in many respects, one of the most important that had ever been held. That was due not only to the tremendous interest in exploiting the resources of the oceans but also to an awareness that the most important of all the functions of the oceans was to sustain the very life on which the continuity of human existence depended.

There was significant evidence that man's activities had proved to be very powerfully destructive to many parts of the oceans, he said. In the Baltic and the Mediterranean, for example, man's activities had already reduced the seas to distress areas.

"The pouring into the oceans of wastes that man generates in cities of the world and the industries are proving to be very destructive indeed," Mr. Strong stated.

He hoped the Conference would take measures that would guarantee that the vital life-sustaining functions of the oceans would not be endangered. The last few years had seen the falling off in the yield of the fisheries resources. It was clearly a very dangerous sign and a careful management of these resources would be required if the supply of protein from fish was to continue.

Mr. Strong noted an enlightened commitment on the part of Venezuela to the intelligent and wise use of its resources. He had found in the country a very committed and ecologically sound approach to the development of the resources, he stated.

Much land in Latin America was being destroyed through careless and destructive patterns of development, he said. Forest areas were being desecrated in many areas. However he had been encouraged to see, at the highest levels, a deep awareness of the problem.

Noting that Thor Heyerdahl was present at the press conference, Mr. Strong said that all those who were concerned with environmental problems had drawn inspiration and a sense of urgency from his comments and experiences during his historic voyages. One of the things that had impressed him most is that those who are closest to the ocean were the ones who were the most concerned. He had been told that Jacques-Yves Cousteau had stopped eating fish altogether.

(more)

Mr. Strong said that millions of people were being threatened with lack of adequate water supply. Water-borne diseases were on the increase everywhere. That was due, in very large part, to the mismanagement of water resources of the world, he stated.

Caracas could be a turning point on the marine environmental matters, he said. If Governments failed to achieve significant measures at the current Conference, the chance of getting agreement may have been lost for a long time to come, Mr. Strong added.

Mr. Strong was asked by a correspondent for comments on the objections that a number of Latin American delegations took to his statement of 8 July in which he had stated that he was "alarmed by the tendency to consider economic resources zone as in effect equivalent to the territorial sea".

He replied that his remarks were not intended as a criticism of the position of any individual Government. They were made solely from the point of view of the environment.

"The Governments that I serve have given me the obligation to speak up on behalf of the voiceless environment, and in doing so, many of the ideas I express may not be in accord with the policies and desires of the Governments I serve," he stated.

It was unfortunate, he said, that his remarks might sometimes run counter to government positions. It was one of the hazards of international life. Perhaps his remarks in the plenary of the Conference were interpreted more strongly than had been intended.

Asked if UNEP had lodged a protest to the French Government regarding its most recent nuclear test, Mr. Strong said that the primary function of the Programme was to work in co-operation with Governments and not one of lodging protests. He added that the subject of nuclear testing was hotly debated in the recent session of the Governing Council and the UNEP now had the role of assessing the damage caused to the environment by such tests. The essential political levers on such matters lay within Governments; the United Nations could only provide moral persuasion, he stated.

Representatives:

The Honorable John R. Stevenson, Ambassador, Special Representative of the President for the Law of the Sea Conference (Chief of the delegation)

The Honorable John Norton Moore, Chairman, The National Security Council Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference (Deputy Chief of the delegation)

Alternate Representatives:

The Honorable Robert McClintock, Ambassador Extraordinary and Plenipotentiary, American Embassy, Caracas

The Honorable Russell E. Train, Administrator, Environmental Protection Agency

The Honorable John A. Busterud, Member of the Council on Environmental Quality, Executive Office of the President

The Honorable Vincent L. McKelvey, Director of the United States Geological Survey, Department of the Interior

The Honorable Howard W. Pollock, Deputy Administrator, National Oceanic and Atmospheric Administration, Department of Commerce

The Honorable Donald L. McKernan, Ambassador (Retired) University of Washington, Seattle, Washington

Mr. Stuart P. French, Director, Law of the Sea Task Force, International Security Affairs, Department of Defense

Mr. Leigh S. Ratiner, Deputy Assistant Administrator for Political and Economic Affairs, Federal Energy Office

Max K. Morris, Rear Admiral, USN, Joint Chiefs of Staff Representative for Law of the Sea Matters, Department of Defense

Mr. Bernard H. Oxman, Special Assistant to the Special Representative and Assistant Legal Adviser for Ocean, Environment and Scientific Affairs, Office of the Legal Adviser, Department of State

Mr. Stuart H. McIntyre, Staff Director, NSC Interagency Task Force on the Law of the Sea, Department of State

Mr. Norman A. Wulf, Representative on the Law of the Sea, Office of the General Counsel, National Science Foundation

Paul A. Yost, Captain, USCG, Special Assistant to the Chief Counsel, United States Coast Guard, Department of Transportation

Congressional Advisers:

The Honorable Warren G. Magnuson, United States Senate

The Honorable Edmund S. Muskie, United States Senate

The Honorable Claiborne Pell, United States Senate

The Honorable Ernest F. Hollings, United States Senate

The Honorable Clifford P. Case, United States Senate

The Honorable Ted Stevens, United States Senate

The Honorable James Buckley, United States Senate

(Plus one more Senator still to be named)

The Honorable Leonor K. Sullivan of Missouri, United States House of Representatives

The Honorable Thomas Downing of Virginia, United States House of Representatives

The Honorable Donald Fraser of Minnesota, United States House of Representatives

The Honorable Joshua Eilberg of Pennsylvania, United States House of Representatives

(Plus four House of Representatives minority members still to be named)

Congressional Staff Advisers: (Still to be named, but estimated at 10.)

Advisers:

Mr. C. Paul Ake, Commander, U.S.N., Office of the Joint Chiefs of Staff, Department of Defense

Mr. John T. Albers, Geologist, U.S. Geological Survey, Department of the Interior

Mr. Burdick H. Brittin, Consultant, Department of State

Mr. James E. Brown, U.S.C.G., Department of Transportation

Mr. David E. Cook, Office of the General Counsel, Council on Environmental Quality

Mr. John A. Dugger, International Security Affairs, Department of Defense

Mr. Pierce Elliott, Division of Energy and Resources, Department of the Interior

Mr. Otho E. Eskin, (Secretary of Delegation), Deputy Staff Director, NSC Interagency Task Force on the Law of the Sea, Department of State

Mr. Frank Fedele, Colonel, USAF, International Security Affairs, Department of Defense

Mr. Richard J. Gage, Director, Office of International Activities, Maritime Administration, Department of Commerce

Mr. Fitzhugh Green, Environmental Protection Agency

Mr. Robert Hodgson, Geographer, Department of State

Mr. Roger H. Hull, Deputy Staff Director and Special Assistant to the Chairman, NSC Interagency Task Force on the Law of the Sea, Department of State

Mr. David B. Johnson, Senior International Economist, Office of Policy Research, Department of the Treasury

Mr. Terry L. Leitzell, Office of the Assistant Legal Adviser for Ocean, Environment, and Scientific Affairs, Department of State

Mr. Dennis E. Logue, Senior International Economist, Office of Policy Research, Department of the Treasury

Mr. Anthony Macone, Deputy Director, Office of Import Programs, Department of Commerce

Ms. Mary Ann Mason, Federal Energy Office

Mr. Robert E. McKew, Adviser, Political and Security Affairs, US Mission to the UN

Mr. Robert McManus, Environmental Protection Agency

Mr. Myron Nordquist (Secretary of Delegation, Technical), Executive Assistant to the Chairman, NSC Interagency Task Force on the Law of the Sea

Mr. Basil N. Petrou, International Economist, Office of Natural Resources, Department of the Treasury

Mr. Richard T. Scully, Office of U.N. Political Affairs, Department of State

Mr. Louis B. Sohn, Professor, Harvard University School of Law, Cambridge, Massachusetts

Mr. James Storer, Special Assistant for International Fisheries Affairs, NOAA, Department of Commerce

Mr. George Taft, NOAA, Department of Commerce

Mr. Peter C. Tosini, Director, Office of Natural Resources, Department of the Treasury

Ms. Rebecca Wright, Federal Energy Office

Mr. Glenn F. Young, Captain, USCG, Department of Transportation

EXPERTS

Petroleum:

Mr. G. Winthrop Haight Attorney-at-Law New York, New York	June 20-July20
Mr. Cecil J. Olmstead Vice President Texaco New York, New York	July 21-August 29

Hard Minerals:

Mr. Richard Greenwald Deepsea Ventures, Inc. Gloucester Point, Virginia	June 20-July 6
Mr. Charles Cook American Mining Congress Washington, D.C.	July 7-July 20
Mr. Marne Dubs Kennecott Copper Corporation New York, New York	July 21-August 17
Mr. John E. Flipse President Deepsea Ventures, Inc. Gloucester Point, Virginia	August 18-August 29

International Law and Relations:

Mr. Aaron Danzig Attorney-at-Law New York, New York	June 20-July 2
Mr. H. Gary Knight Louisiana State University Baton Rouge, Louisiana	June 20-July 2
Mr. Lewis Alexander University of Rhode Island Kingston, Rhode Island	July 3-July 16
Mr. Robert B. Krueger Attorney-at-Law Los Angelese, California	July 17-July 30

Ms. Ann Hollick Johns Hopkins School of Advanced International Studies Washington, D.C.	July 31- August 14
Mr. Richard R. Baxter Harvard Law School Cambridge, Massachusetts	July 31-August 14
Ms. Margaret L. Gerstle Attorney-at-Law Washington, D.C.	August 15-August 29

Marine Environment:

Mr. Anthony W. Smith Attorney-at-Law Washington, D.C.	June 20-July 5
Mr. Richard A. Frank National Resource Defense Council Washington, D.C.	July 5-July 26
Mr. Sam Levering Save Our Seas Washington, D.C.	July 27-August 16
Mr. Robert Hallman Center for Law and Social Policy Washington, D.C.	August 17-August 29

Fisheries:

Mr. William N. Utz American Shrimp Association Washington, D.C.	June 20-August 16
Mr. Robert G. Mauermann Texas Shrimp Association Brwonsville, Texas	August 17-August 29
Mr. August J. Felando American Tunaboat Association San Diego, California	June 20-August 16
Mr. Charles R. Carry Tuna Research Foundation, Inc. Terminal Island, California	August 17-August 23

Mr. John J. Royal Secretary/Treasurer Fishermen and Allied Worker's Union San Pedro, California	August 24-August 29
Mr. Jacob J. Dykstra Point Judith Fishermen's Coop. Association Point Judith, Rhode Island	June 20-August 16
Mr. Lowell Wakefield Wakefield Seafood, Inc. Port Wakefield, Alaska	August 17-August 29
Mr. W.V. Yonker Executive Vice President Association of Pacific Fisheries Seattle, Washington	June 20-August 16
Mr. William Saletic Executive Manager Seiners Association Seattle, Washington,	August 17-August 29

Marine Science:

Mr. Thomas Clingan, Jr. Dean School of Law University of Miami Coral Gables, Florida	June 20-July 5
Mr. Warren Wooster Dean, Rosenstied School of Marine and Atmospheric Science Miami, Florida	July 6-July 19
Mr. John Craven Coordinator, Marine Affairs University of Hawaii	July 20-August 2
Mr. John Knauss Provost for Marine Affairs University of Rhode Island	August 3-August 16
Mr. William Burke University of Washington School of Law Seattle, Washington	August 17-August 29

Maritime Industries:

Mr. William J. Caffey
American Institute of
Merchant Shipping
Washington, D.C.

June 20-August 29

Statement by Ambassador John R. Stevenson
Special Representative of the President and
Chairman of United States Delegation to the
Third United Nations Law of the Sea Conference,
before a Joint Meeting of the Subcommittee on
Minerals, Materials and Fuels of the Senate
Interior and Insular Committee and the National
Ocean Policy Study, September 17, 1974

Mr. Chairman:

I welcome this opportunity to appear before this combined panel to report on the progress made at the first substantive session of the Third United Nations Conference on the Law of the Sea held in Caracas, Venezuela, from June 20 to August 29, 1974.

Before proceeding with this report, I would like to say how much we appreciated the attendance at the Conference of Senator Buckley of this Committee and Mr. Brit Englund of your staff, and Mr. David Stang and Mr. Michael Harvey of the Committee's staff. We are deeply grateful for their willingness to attend the Conference and for the advice and assistance that they and other members of the Committee have given to our efforts to achieve an agreed constitution and supporting legal regime for two-thirds of this planet. It has been and will remain a fundamental part of our policy to work closely with the Congress and this Committee to achieve a Law of the Sea Treaty that fully

protects the basic interests of the United States.

I want to emphasize at the outset that, while the results of the Caracas session were not all we hoped for, the session was not a failure.

A most significant result was the apparent agreement of most nations represented there that the interests of all will be best served by an acceptable and timely treaty.

To that end, the Conference has scheduled not only the next session in the spring in Geneva, but a return to Caracas for the signing of this agreement in the expectation that this will take place in accordance with the United Nations timetable. That timetable provides for conclusion of the treaty in 1975.

Further evidence of this desire to achieve promptly a widely-acceptable treaty was reflected in the adoption by consensus of the rules of procedure early in the session. These rules make several changes in normal procedures that are designed to promote widespread agreement.

The tone of the general debate and the informal meetings was moderate and serious and reflected wide agreement on the broad outlines of a comprehensive general agreement.

Finally, I am sure the members of the Senate who

were with us will agree that the Delegates from all regions worked hard. Three or four simultaneous meetings were common and there were some night sessions. The number of papers worked on was enormous, but this time the object -- largely achieved -- was organizing and reducing the alternatives, not proliferating them.

Other accomplishments of the session were considerable. Among the most important are the following:

(a) The vast array of critical law of the sea issues and proposals within the mandate of Committee II -- including among others the territorial sea, economic zone, straits, fisheries and the continental margin -- was organized by the Committee into a comprehensive set of working papers containing precise treaty texts reflecting main trends on each precise issue. All states can now focus on each issue, and the alternative solutions, with relative ease.

A similar development occurred with respect to marine scientific research in Committee III. Committee I, dealing with the novel subject of a legal regime for exploiting the deep seabed, had previously agreed to alternative treaty texts in the preparatory Committee and further refined these texts at the Caracas session.

(b) The transition from a preparatory Committee of about 90 to a Conference of almost 150, including many newly independent states, was achieved without major new stumbling blocks and a minimum of delay.

(c) The inclusion in the treaty of a 12-mile territorial sea and a 200-mile economic zone was all but formally agreed, subject of course to acceptable resolution of other issues, including unimpeded transit of straits. Accordingly, expanded coastal state jurisdiction over living and non-living resources appears assured as part of the comprehensive treaty.

(d) With respect to the deep seabeds, the first steps have been taken into real negotiation of the basic questions of the system of exploitation and the conditions of exploitation.

(e) Traditional regional and political alignments of states are being replaced to some degree by informal groups whose membership is based on similarities of interest on a particular issue. This has somewhat facilitated clarification of issues and is necessary for finding effective accommodations.

(f) The number and tempo of private meetings has increased considerably and moved beyond formal positions. This is essential to a successful negotiation.

Of course, by their very nature, the results of such meetings cannot be discussed publicly.

With few exceptions, the Conference papers now make it clear what the structure and general content of the Treaty will be. The alternatives to choose from, and the blanks to be filled in, and even the relative importance attached to different issues, are well known.

What was missing in Caracas was sufficient political will to make hard negotiating choices. A principal reason for this was the conviction that this would not be the last session. The absence prior to the completion of this session of organized alternate treaty texts on many issues also inhibited such decision making.

The next step is for Governments to make the political decisions necessary to resolve a small number of critical issues. In short, we must now move from the technical drafting and preliminary exploratory exchanges of views at this just completed session, which has laid bare both the outlines of agreement and the details of disagreement, to the highest political levels, involving heads of states themselves, to make accommodation on these critical issues possible.

The fundamental problem is that most states believe the major decisions must be put together in a single package. Every state has different priorities, and agreement on one issue is frequently conditioned on agreement on another. Thus, it might have been possible to adopt a general declaration of principles in Caracas endorsing, among other things, a 12-mile territorial sea and a 200-mile economic zone. Our Delegation opposed such an idea, because it would have diverted us from negotiating the key details of an economic zone that can spell the difference between true agreement and the mere appearance of agreement, and because our willingness to support such concepts is also conditioned on satisfactory resolution of other issues, including unimpeded passage of straits. In choosing to concentrate on precise texts and alternatives, our Delegation believed we were in fact best promoting widespread agreement on schedule. However, we recognized that the absence of tangible symbols of agreement would place us in a politically difficult situation between sessions.

In his closing statement before the Caracas session, the President of the Conference, recognizing the problem,

stated, "we should restrain ourselves in the face of the temptation to take unilateral action", and then urged states to prepare to reach agreement "without delay" since governments cannot be expected to exercise "infinite patience."

We regret that for a variety of reasons the Conference was unable to capitalize upon the initial, prevailing good will to produce a final treaty at the Caracas session. Nevertheless, the political parameters of an overall agreement were made much clearer at Caracas and we are at the stage where differences in approaches are embodied in specific treaty articles expressed as alternative formulations on almost all the major issues.

On July 11 at a Plenary session, we noted there was a growing consensus on the limits of national jurisdiction, which we supported in the following terms: "A maximum outer limit of 12 miles for the territorial sea and of 200 miles for the economic zone...conditioned on a satisfactory overall treaty package and, more specifically, on provisions for unimpeded transit of international straits and a balance between coastal state rights and duties within the economic zone." To promote negotiations on the essential

balance of coastal state rights and duties the United States submitted draft articles proposing the establishment of a 200-mile economic zone in the treaty. The U.S. draft articles consist of three sections: the economic zone, fishing, and the continental shelf.

The economic zone section provides for a 200-mile outer limit with coastal state sovereign and exclusive rights over resources, exclusive rights over drilling and economic installations, and other rights and duties regarding scientific research and pollution to be specified. There would be coastal state environmental duties with respect to installations and seabed activities. All states would enjoy freedom of navigation and other rights recognized by international law within the economic zone.

The fishing section gives the coastal state exclusive rights for the purpose of regulating fishing in the 200-mile economic zone, subject to a duty to conserve and to ensure full utilization of fishery stocks taking into account environmental and economic factors. Fishing for anadromous species such as salmon beyond the 12-mile territorial sea would be prohibited except as authorized

by the host state. Highly migratory species such as tuna would be regulated by the coastal state in the zone and by the flag state outside the zone, in both cases in accordance with regulations established by appropriate international or regional organizations. Membership in the organization would be mandatory and the coastal state would receive reasonable fees for the highly migratory fish caught in its zone by foreign vessels. The international organization in establishing equitable allocation regulations, would be obligated to ensure full utilization of the resource and to take into account the special interests of the coastal states within whose economic zones highly migratory fish are caught.

The continental shelf section provides for coastal state sovereign rights over exploration and exploitation of continental shelf resources. The continental shelf is defined as extending to the limit of the economic zone or beyond to a precisely defined outer limit of the continental margin. The coastal state would have a duty to respect the integrity of foreign investment on the shelf and to make payments from mineral resource exploitation for international community purposes, particularly for the economic benefit of developing countries. In

our plenary statement we suggested that these payments should be at a modest and uniform rate. The revenue sharing area would begin seaward of 12 miles or 200 meters water depth, whichever is further seaward.

The draft articles on the economic zone place the United States in the mainstream of the predominant trends in the Conference, and we were pleased with the favorable reaction to our proposal. We were disappointed, however, at the support, particularly among a number of African countries, for an economic zone in which there would be plenary, coastal state jurisdiction, not only over resources, but over scientific research and vessel-source pollution as well and in all of these areas there would be no international standards except provisions for freedom of navigation and overflight and the right to lay submarine cables and pipelines. Many of the same countries are saying that if a pattern of unilateral action by individual countries emerges before a treaty is agreed, they would go further and opt for a full 200-mile territorial sea.

We believe that specifying the rights and duties of both coastal states and other states in the economic zone is the approach best designed to avoid the sterile debate over abstract concepts.

At the final meeting of the Second Committee on August 28, the Chairman, Ambassador Andres Aguilar of Venezuela, made a constructive and challenging statement summing up its work. On its own initiative, the Committee decided to have the statement circulated as an official Committee document. This occurred after initial opposition by the 200-mile territorial sea supporters, which was withdrawn in the face of other Delegations' willingness to proceed to a vote if necessary. Because of its great importance and the universal respect and admiration earned by Chairman Aguilar for his strong and effective leadership, I would like to quote briefly from that statement.

> "No decision on substantive issues has been taken at this session, nor has a single Article of the future Convention been adopted, but the States represented here know perfectly well which are at this time the positions that enjoy support and which are the ones that have not managed to make any headway.
>
> "The paper that sums up the main trends does not pronounce on the degree of support which each of them had enlisted at the preparatory meetings and the Conference itself, but it is now easy for anyone who has followed our work

closely to discern the outline of the future Convention.

"So far each State has put forward in general terms the position which would ideally satisfy its own range of interests in the seas and oceans. Once these positions are established, we have before us the opportunity of negotiating based on an objective and realistic evaluation of the relative strength of the different opinions.

"It is not my intention in this statement to present a complete picture of the situation as I see it personally, but I can offer some general evaluations and comments.

"The idea of a territorial sea of 12 miles and an exclusive economic zone beyond the territorial sea up to a total maximum distance of 200 miles is, at least at this time, the keystone of the compromise solution favoured by the majority of the States participating in the Conference, as is apparent from the General debate in the Plenary meetings and the discussions held in our Committee.

"Acceptance of this idea is, of course, dependent on the satisfactory solution of other issues, especially the issue of passage through straits used for international navigation, the outermost limit of the continental shelf and the actual retention of this concept and, last but not least, the aspirations of the land-locked countries and other countries which, for one reason or another, consider themselves geographically disadvantaged.

"There are, in addition, other problems to be studied and solved in connection with this idea, for example, those relating to archipelagos and the regime of islands in general.

"It is also necessary to go further into the matter of the nature and characteristics of the concept of the exclusive economic zone, a subject on which important differences of opinion still persist.

"On all these subjects substantial progress has been made which lays the foundations for negotiation during the intersessional period and at the next session of the Conference."

Mr. Chiarman, our experience during the Caracas session indicated that in the area of deep seabed mineral exploitation wider divergencies exist between the U.S. and the majority of nations at the Conference than on any other issue. The United States took the position that the convention must "guarantee access on a nondiscriminatory basis" to deep seabed resources. During the conference we explained that our concept of "guaranteed access" included a requirement that mining rights be granted automatically to any qualified applicant, that the whole system for granting rights be carefully structured in the treaty to insure that the system would be economically efficient and that exploitation occur under a set of detailed conditions written into the treaty that, taken together, guarantee the security of exploitation necessary to attract investments.

As in other areas of the law of the sea, the United States has sought in the deep seabed negotiation to protect its principal national interest in access to these mineral resources not by sweeping generalities written into treaty articles, but rather by setting out detailed provisions that explicitly prescribe how the system will work, what will be the rights and obligations of both the international machinery established to govern exploitation and

the prospective ocean miners who will do business under the system and what kinds of safeguards will be provided for ensuring that these respective rights and obligations are protected and fulfilled. Nevertheless, it is clear that inclusion in the convention of a detailed mining code alone would not fully protect our interest in guaranteed access, and thus the United States position also depends on achieving an appropriate balance in decision-making organs that realistically reflect existing interests, as well as providing machinery for the compulsory settlement of disputes.

Inclusion in the treaty, or in an annex with equal legal status of the "basic conditions of exploration and exploitation" was widely accepted this summer. However, the Group of 77 approach to "basic conditions of exploitation" differs from our own concept of rules and regulations in major ways. This includes the amount of detail to be included in the treaty. The Group of 77 draft also leaves substantial discretion to the International Authority where our regulations leave little, if any. The Group of 77, and indeed some other countries like Norway and Sweden, have argued that it would be unwise to attempt to freeze in the treaty the precise terms and conditions to be imposed on an industry about which we have little knowledge. Moreover, many delegations expressed apprehension that a

extremely technical and that, lacking technical experts on ocean mining in their own governments, they would be placed at a considerable disadvantage in such a negotiation. Such a negotiation, they have also argued, could not be completed in 1975.

We believe many of these arguments reflect underlying political and economic differences. One such difference relates to the conceptual differences concerning the nature and scope of the powers to be exercised by the International Seabed Authority. Another difference is that many countries in Committee I attach considerable importance to a widely ratified agreement that recognizes both the power of the Authority to engage in direct exploitation and its complete control over exploitation conducted by any other entity in the International Seabed Area. A third such difference is that several countries, some in leadership roles in the Committee, seek to use the power of the Authority to restrict seabed mineral production in order to protect their own land-based mineral resources. Inclusion of detailed rules and regulations in the convention, they argue, would create a "strait jacket" for the Authority and would jeopardize the ability of the Authority to exercise direct and effective control over all activities of exploration and exploitation.

The U.S. responded to these arguments in detail in the discussion in Committee I and in the [illegible] regulations

are an important part of any deep seabed mining system.

Committee I, unlike the other committees, had before it a complete set of alternative treaty texts on the international regime and machinery assembled by the UN Seabed Committee. Thus, during the Caracas session, Committee I devoted almost all of its time to consideration of the three key issues under its mandate which have or will present the greatest difficulty. These issues--the exploitation system, who may exploit the area, the conditions of exploitation and the economic aspects of exploitation--are at the very core of the successful resolution of the multitude of alternative treaty texts on the international regime and machinery prepared by the UN Seabed Committee. Moreover, they are subjects which had not previously received careful and thorough consideration during the course of the negotiation.

Early in the Caracas session, the Group of 77 negotiated among themselves and then introduced a new alternative text for the important Article 9, "Who May Exploit the Area." While this text is unacceptable to the U.S., it should be noted that in previous meetings the Group of 77 had been unable to agree that the Authority should be allowed to enter into various types of contractual arrangements with private entities. The new text, however, permits this practice as long as the Authority

maintains "direct and effective control" over all activities. A trend could be discerned towards recognition that at least in the early years of its existence, the Authority would of necessity be required to deal with those private corporations from industrialized nations that have the financial and technical capacity to mine the seabeds. In order to attract these entities, the Authority will have to offer reasonable and secure conditions for their investments. The Group of 77 text does not contain any retreat from their position on direct exploitation by the Authority.

Mr. Chairman, we believe that Committee I benefitted greatly from a shift in the focus of its deliberation from the question of who may exploit the area to the conditions of exploitation. In a negotiating effort to meet the expressed concerns of the United States and other industrialized countries, the Group of 77 agreed to elaborate in greater detail the extent of control which their proposal would grant the Authority, the basic conditions of exploitation

that the Authority would be empowered to impose on ocean miners. The proposed basic conditions introduced by the Group of 77 would grant the Authority far greater discretion in managing seabed operations than the United States could accept, but it includes several interesting elements which merit further discussion, such as security of tenure, a priority of right for the explorer to move to the exploitation phase and selection among applicants on a competitive basis. Moreover, the very introduction of "basic conditions of exploitation" represents a commitment to the concept that some such conditions will be included in the convention.

In comparison to the Group of 77 draft of basic conditions, the draft conditions of exploitation submitted by the United States is detailed and designed to limit the power of the Authority to discriminate among various ocean miners and to impose arbitrary and unreasonable terms and conditions. The draft conditions submitted by Japan and those prepared by eight members of the European Community are generally similar in approach and in detail to the United States position. The drafts, however, contemplates licensing only to states rather than directly to private entities. They also include a limitation on the number of mine sites to be granted

any single entity. Moreover, the Union of Soviet Socialist Republics publicly endorsed a similar type of quota system for states. The United States has not supported any limitation on the amount of area for which exploitation rights can be granted to any single state or natural or juridical person but has sought through requirements to ensure diligence that the area will be brought into commercial production within a specified period of time. Moreover, it is important to mention that the Soviet Union clearly endorsed exploitation by the Authority through service contracts and joint ventures as well as exploitation by states.

Mr. Chairman, Committee I devoted several informal meetings to general debate on the proposals for basic conditions tabled at Caracas. There was little detailed discussion of the specifics of the rules and regulations proposed by the U.S. or other industrialized countries. The reaction of many countries to the industrialized nations' drafts, were highly critical. They indicated their apprehension that these proposals unduly restricted the Authority's powers and thus were at variance with their concept of a strong international machinery. A view expressed by many was the need for protection of land-based production. In addition, in

the view of many delegations, the available knowledge concerning ocean mining is at present too limited to allow agreement on detailed regulations that would have the same force as treaty law. In a statement to the Committee on August 19, the United States described what it believed to be the most essential elements to be contained in basic conditions of exploitation and elaborated the United States position that in those areas where it is not possible at this time to draft regulatory provisions, a detailed and carefully constructed system of rule making should be established by the convention.

In addition to the exploitation system and the conditions of exploitation, Committee I considered the question of economic effects of seabed production on the economies of developing country producers of the metals contained in manganese nodules. As we have testified several times before this Committee, the United States is opposed to granting the International Seabed Authority the right to impose, either directly or indirectly, price and production controls on seabed operations. The question of economic implications, however, has always been a highly politicized issue in the law of the sea negotiations. We believe that many members of Committee I reached a new

appreciation in the course of discussions on the economic implications of deep seabed mining of the uncertainty surrounding estimates that seabed production will damage the economies of developing country producers of copper, cobalt, nickel and manganese. Moreover, for the first time we heard public statements by representatives of developing countries that recognized the need to protect consumers from artificially high prices for these metals. While this new awareness has by no means eliminated support for price and production controls within the Committee or an Authority with strong regulatory powers, we are hopeful that future discussion of the economic implications issue can be conducted in a more knowledgeable and pragmatic context.

Mr. Chairman, the nations participating in the deliberations of Committee I are now more aware than ever before of the serious importance which the United States attaches to its interests in the deep seabed negotiation. Our insistence that the convention must spell out the conditions of exploitation in order for us to be certain that guaranteed access on a non-discriminatory basis is fully protected has helped to produce agreement to negotiate basic conditions. Though this agreement does not meet our concerns as to the

conditions which must be included in the treaty, we are hopeful that such a negotiation, coupled with further consideration of the article on the exploitation system, can serve to facilitate agreement on the rights and duties of both the Authority and ocean miners.

The Caracas session did not see any major negotiating breakthrough or fundamental change in any position. However, during the last few weeks of the Conference real negotiations began on the basic conditions for exploitation when the First Committee agreed to establish a small, informal negotiating group. This group will resume its work at the next session of the Conference and we hope that negotiations in this context and during the intersessional period will lead to a narrowing of differences and a realistic approach that will promote access by industrialized consumer countries and the development of the mineral resources of the deep seabeds. The differences between what we call regulation and what others call control may be narrowed if we can agree on the conditions of exploitation, including measures to ensure that exploitation on a nondiscriminatory basis will take place, and if agreement can be reached on protecting relevant interests in the decision-making process. We cannot overlook, however, the fact that the positions of the industrialized

countries and the Group of 77 are widely separated on the question of the basic conditions of exploitation. The underlying reason for this divergence on all aspects of the Committee I negotiation is that the developing countries as a rule tend to approach the negotiation from a conceptual perspective that envisions an international machinery with broad, general powers, including the power of direct exploitation. The United States, however, favors elaborating in detail both the powers of the Authority and the safeguards to prevent abuse of this power and does not support the power of direct exploitation. Committee I is perhaps our most difficult negotiation, rooted as it is in widely differing political and economic interests.

In the Third Committee of the Conference, there was only a modicum of progress toward agreeing on treaty texts for protection of the marine environment and oceanographic scientific research. Alternative texts concerning the preservation of the marine environment were prepared on several points including basic obligations, particular obligations, global and regional cooperation and technical assistance. But basic political issues remain to be resolved on the jurisdiction of port and coastal states with respect to establishing and enforcing vessel-source pollution standards and most

notably, on the desirability of coastal state vessel pollution control zones. In addition, there is a major issue as to whether there will be different obligations for states depending upon their stage of economic development--the so-called double standard. We believe that the Caracas session broadened the basis of understanding of the complex problems involved in drafting new legal obligations to protect the marine environment, and there were indications that all states were analyzing their environmental policies in detail.

On the scientific research issue, the various proposals were reduced to four principal alternatives regarding scientific research within the areas of national jurisdiction. Some states advocated a regime requiring coastal state consent for all research. Others supported a modified consent regime. The United States supported a regime which places obligations on the state conducting the research to notify the coastal state, provide for its participation and ensure sharing of the data, and assistance in interpreting such data. Other states proposed complete freedom of scientific research.

We were encouraged by the fact that for the first time states appeared to be moving toward serious

negotiations on this subject, including serious consideration of our proposal.

Mr. Chairman, we know there will be disputes with respect to the interpretation and application of the provisions of the Treaty. The willingness of the United States and many others to agree to a particular balance of the rights and duties of states and the International Authority is predicated upon reasonable confidence that the balance will be fairly maintained. Accordingly, the establishment of an impartial system of peaceful and compulsory third party dispute settlement is critical. We were encouraged to find at the Caracas session that there were states from all Regional Groups that support the need for comprehensive dispute settlement provisions. At the end of the session, the United States co-sponsored, with eight other states from different regions, a working paper containing alternative texts of draft treaty articles. This document was prepared, and is in general supported, by a broader informal Group chaired by the Representatives of Australia and El Salvador, for which Professor Louis Sohn of the Harvard Law School served as Rapporteur. We hope this document will facilitate the drafting of treaty articles on this important element of the Convention.

With your permission, Mr. Chairman, I will submit for the Record a copy of the Report transmitted by the Delegation to the Department of State on August 30, and copies of all draft articles sponsored or co-sponsored by the United States. The consolidated Treaty texts in Committee II and other documents will be transmitted to the Committee as soon as we recieve them from the UN Secretariat. With your permission I would like to submit all formal statements made by the U.S. Delegation at the Caracas session.

Mr. Chairman, it is my firm conviction that a comprehensive treaty is obtainable by the end of 1975 as contemplated in last year's United Nations General Assembly Resolution. To do so, however, governments must begin serious negotiation the first day at Geneva, and to prepare for that, they must during the inter-sessional period appraise the alternatives, meet informally to explore possible accommodations that go beyond stated positions, and supply their delegates with instructions that permit a successful negotiation.

A multilateral convention of unparalleled complexity affecting some of our nation's most vital economic and strategic interests is within our reach. We cannot and will not sign just any Treaty; but in my judgment we would be terribly remiss in our responsibilities to the United States and to the international community

as a whole if we were now to overlook broader and longer-range perspectives. In the year ahead we intend to work diligently and carefully for a Convention that will protect our interests in the broadest sense of that term. In this endeavor, Mr. Chairman, we trust that we shall continue to have the guidance and support of the Congress.

Through our mutual cooperative efforts I am certain that we can take the necessary steps and develop constructive initiatives so that all will agree that the United States has done all it could to foster a successful outcome of the Third United Nations Conference on the Law of the Sea on schedule in 1975.

Thank you, Mr. Chairman.

15th Year

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Ocean Science News

FIRST NEWSLETTER DEVOTED TO WORLD COVERAGE OF WORLD OCEAN AFFAIRS

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THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA CONVENED at 4:15 p.m., 3Dec in New York City (the first two were, of course, in 1958 and 1960). The fact that Secretary-General Kurt Waldheim called the conference to order an hour and a quarter late could be taken as a signal that the business at hand will proceed as expeditiously as possible: By delaying the opening, U.N. delegates (148 member and non-member governments are actually represented) caucused informally and decided to dispense with the usual nominating procedures which would lead to the election of a president of the Conference. Instead they agreed to have the S-G announce that by acclamation the Conference had chosen Ambassador H.S. Amerasinghe of Sri Lanka (Ceylon) as its president. He has been chairman of the Seabed Committee (now dissolved) which has handled all the preliminary work to this organizational session (3-14Dec) in NYC and the substantive session scheduled for Caracas, 20Jun-29Aug.

The election of Amerasinghe was publicly endorsed by representatives of the various regional groupings: Uganda for Africa, Lebanon for the Middle East, Bulgaria for the East European states, Argentina for South America, and Germany for Western Europe. The U.S. chief of delegation, Ambassador John R. Stevenson, added that Amerasinghe possessed "the quality to lead and discipline a Conference of this kind..." and warned that the U.N. "didn't have much time." "We face the potential partition of the oceans," said Stevenson. In his opening statement, Waldheim anticipated Stevenson by calling for immediate action: "...the task will become substantially more difficult if we wait for the development of new uses and for the inevitable intensification of existing uses."

It is a political ocean (apologies to Ed Wenk). As soon as the formalities of 3Dec were finished, it took all week, ostensibly, for the delegates to decide on the official rapporteur. Actually, several more serious matters trouble the delegates, including the so-called "gentlemen's agreement" under which no voting on substantive matters is to take place "until all efforts at consensus have been exhausted." This agreement is designed to produce new law of the sea conventions with which all nations can concur. Anything less would amount to a waste of time. Meanwhile, there is growing awareness that Caracas is not the end of the story. This Third U.N. Conference on the Law of the Sea won't be over until 1975 at least -- and in Vienna.

Volume 15, Number 50, December 14, 1973

THE U.N. LAW OF THE SEA CONFERENCE made significant progress this week -- but it wasn't easy (OSN, 7Dec). Procedural questions continued to slow down the organizational session (originally scheduled 3-14Dec), which is designed to smooth the way for the substantive session in Caracas 20Jun-29Aug. As OSN went to press, delegates were still arguing over the rules of procedure for the Conference, particularly the method of voting.

Best news to come out of the LOSC in New York City was the election of John A. Beesley of Canada as chairman of the Drafting Committee. Emphasis in this committee is not on in-

itiating and negotiating texts, but on professional and technical competence. There are 22 places on the committee, besides the chairman: Six nations from the African Group, six from the Asian, two from East Europe (including the U.S.S.R.), four from Latin America, and four from the group designated "West European and Other States" -- including the U.S.

Responsibility for originating texts of agreements will rest with three committees. The First and Third Committees have very specific assignments. The First (chaired by Paul Engo of Cameroon) will handle questions of resource jurisdiction over areas beyond national jurisdiction, and the establishment of a seabed resource agency. The Third Committee (chaired by Alexander Yankov of Bulgaria) will handle matters pertaining to protection of the marine environment, scientific research, and the transfer of technology from developed nations to developing ones. The Second Committee (chaired by Andres Aguilar of Venezuela) will handle everything else, including such problems as territorial seas, passage through straits, and resource jurisdiction for areas already under national jurisdictions.

The U.S. delegation, in the form of a special briefing to the LOS Advisory Committee 13Dec, expressed great satisfaction with the election of the various chairmen -- all men "of great ability, substantial representatives of the U.N." The U.S. is also considerably gratified, it was noted, that it had been elected to serve both as a vice president of the LOS Conference, and as a member of the Drafting Committee. The 31 vice presidents (plus Conference President Amerasinghe, and the chairmen of the First, Second, Third and Drafting Committees) constitute the General Committee of the Conference which assists the president "in the general conduct of the business of the Conference," ensuring coordination of the efforts of the other committees. (One U.S. delegate source denied to OSN that the U.S. had made any threat, as was reported in one newspaper, to "walk out" if it didn't get the vice presidential position on the General Committee. The vote did represent an interesting test of U.S. strength at the Conference: Six vice-presidential seats were allocated to the West Europe & Other States Group, and the U.S. with 107 votes ran second to France with 109. Norway, Belgium, U.K. and Iceland got the other four seats with 104, 100, 99, and 96 votes respectively. Italy and Greece lost out.)

The debate over voting procedures involves what U.S. sources describe as "the danger of premature voting." The U.S. insists that a Conference-binding vote must represent two-thirds of the members of the Conference. That position contrasts with many of the developing nations, which argue for a two-thirds vote of "those present and voting." Involved here is the so-called "Gentlemen's Agreement," arrived at before the Conference opened. To become a formal part of the rules of procedure, the agreement states that "there should be no voting on substantive matters until all efforts at consensus have been exhausted." Also proposed is a "cooling off period." Any time it appeared the Conference was ready to vote, there would still be a 48-hour cooling off period "to avoid hasty votes." Other issues include the U.S. suggestion there should be "indicative" voting in the early stages of committee meetings; and the Soviet position that no voting should take place until every method possible has been tried to arrive at a consensus, and then the vote would be by 9/10s of those present & voting.

Perhaps the most hopeful sign at the Conference, besides the choices for committee chairmen, is the general agreement among all the delegates that "the broadest possible areas of agreement should be sought...there should be no attempt by a majority to impose its will on the minority, nor an attempt by minorities to block decisions intended to sort out the present disorder in matters affecting ocean space."

Volume 15, Number 51, December 21, 1973

THE ORGANIZATIONAL MEETING OF THE LAW OF THE SEA CONFERENCE ENDED in a deadlock over the rules of procedure -- hardly an auspicious beginning (OSN, 7&14Dec). The scene now moves to Caracas (20Jun-29Aug) for the substantive meeting, except that the first week in Caracas will be devoted to establishing the rules of procedure. The 150 delegates to the U.N. Conference agreed last Saturday (15Dec) in New York that it was useless to try to iron out the differences over the rules of procedure -- and besides, they all had travel arrangements which couldn't be changed.

The issue concerns the effort to get a Convention on the Law of the Sea which will have the widest possible acceptance throughout the world. The proposed rules of procedure call for the Conference to "make every effort to reach agreement on substantive measures by way of consensus; that there should be no voting on such matters until all efforts at consensus had been exhausted." In New York various delegations offered various amendments to that proposal, and the Conference ended in deadlock.

If the rules can't be agreed to the first week in Caracas, then the usual rules of the U.N. General Assembly will be adopted -- a straight majority vote. Obviously an LOS Convention adopted by a simple majority doesn't stand much chance of being accepted worldwide. Therefore the president of the Conference, Sri Lanka's H. S. Amerasinghe, will try in NYC 25Feb-1Mar to end the deadlock through a series of informal meetings with the more obstreperous delegations. The last day of January has been set as the absolute deadline for the submission of any further amendments to the rules of procedure.

Volume 16, Number 22, May 31, 1974

THE U.S. DELEGATION HAS BEEN NAMED TO THE CARACAS MEETING (20Jun-29Aug) of the Third U.N. Conference on the Law of the Sea. The names are familar ones. Ambassador John R. Stevenson is special representative of the President and head of the delegation; John Norton Moore, is deputy special representative. Then there are 13 alternates (mostly federal types), 16 senators and members of the House, 10 Congressional staff members, and 29 official advisers. Finally, there is a body of "experts" from petroleum, hard minerals, international law, marine environment, fisheries, marine science, and maritime industries. (OSN, 3May, reported six educators had been named to the U.S. delegation; we should have said one was named, plus five backup experts.)

In preparation for Caracas, the U.S. State Dept. has drawn up a draft environmental impact statement 3 inches thick. The anticipated "impact" covers a "reasonable range of alternatives...on the issues which may be of major environmental significance." A final EIS will not come until a Law of the Sea Treaty goes to the Senate for advice & consent. In general, this draft EIS covers land-based sources of marine pollution, vessel pollution, global fisheries, outer continental shelf mineral exploration, and the mining of deep seabed hard minerals seaward of national jurisdictions.

Congressional interest in what is going to happen at Caracas is very high. With fisheries matters bound to be one of the major issues, Rep. Gerry Studds (D-MA) notes the U.S. position -- insofar as Congress is concerned, is hardening on the 200-mile fish conservation zone approach. He has 118 co-sponsors in the House for his bill (H.R. 8665), while Sen. Warren Magnuson (D-WA) has 21 co-sponsors for the Senate version (S. 1988). As the U.S. delegates pack their bags for Caracas, the largest Soviet fishing fleet ever seen off U.S. shores is just 25 miles from San Francisco. On the east coast, Maine lobstermen are

carrying rifles on their boats and threatening to fire on foreign vessels which come too close to their gear. State Dept. worries about Congressional intent in the fisheries and offshore mining areas, fearing that unilateral action by Congress could jeopardize U.S. hopes for an LOS treaty.

The second session of the Third U.N. Conference on Law of the Sea opens at 3 P.M. 20Jun with a moment of prayer. The following week will probably see a renewal of the wrangling over procedural questions (particularly voting procedures), which took up the time of the first session in New York City last December (OSN, 7, 14&21Dec). In an informal meeting in NYC, 12-14Jun, LOSC President H.S. Amerasinghe (Sri Lanka) will attempt to bring the major differences on procedural questions closer together so matters may move more smoothly once the delegates from nearly 150 nations arrive in Caracas. Anticipating that Caracas won't provide the solutions to all the problems of the sea, most delegates plan to be in Vienna in 1975 for the continuation of LOSC.

Volume 16, Number 24, June 14, 1974

THE WORLD APPEARS READY FOR THE 200-MILE RESOURCE ZONE CONCEPT as the best way to settle some major law of the sea questions, and -- perhaps -- keep the world at peace. As delegates from nearly 150 countries prepare to meet in Caracas (20Jun-29Aug), most of the talk is about the extent of agreement that can be found on the economic resource zone question.

The Russians are apparently the latest U.N. member to join the 200-mile club, so agreement within Committee II on a single text for a zone approach appears to be a distinct possibility in Caracas this summer. Delegates would then spend the winter in informal groups finding accommodating positions on the other major law of the sea issues, and resume this Third U.N. Conference on the Law of the Sea in Vienna in the summer of 1975.

The major hang-up to the 200-mile approach is Japan. The Japanese Fisheries Agency admits it was "jolted" by the Declaration of Nairobi, signed by 27 developing nations, and calling for a 200-mile fisheries zone. The Japanese say 80% of their ocean catch is within the 200-mile zones of the 27 countries. (Half of Japan's fish catch comes from off the coasts of other nations.) Also, the Japanese see the U.S. and the U.S.S.R. cooperating at Caracas, and were not surprised by the latest Russian move, while being well aware of the tremendous pressure on the Nixon Administration from Congress to join the 200-mile club.

All over the world, nations are almost at each other's throats over law of the sea issues. U.S. fishermen journey to their Capitol in a trawler festooned with captured illegal foreign fishing nets (the mesh is too small). Greece announces a 12-mile territorial sea (11 of 16 Mediterranean countries have gone to 12 miles now), and travelers returning from the Aegean Sea tell of a state of national alert (Turkish submarines sail at dawn -- practice black-outs are held in the Greek city of Thessaloniki). A Turkish research vessel is reportedly searching for oil in waters claimed by Greece. Soviet authorities confiscate wristwatches and a radar set from Japanese fishermen whose boat was boarded off the Siberian coast for alleged fishing violations. The watches and radar were to meet the fine levied on the spot. The Russians threaten "sterner measures" the next time they catch the Japanese. Peking charges the South Koreans with deliberately destroying Chinese fishing gear and poaching. Australia catches Indonesian fishing boats inside its 12-mile limit -- the boats are of such shallow draft they often easily avoid the Aussies' naval patrols. The Viet Cong say they will attack facilities of foreign companies recently awarded rights to explore for oil off Vietnam.

In Washington DC, Interior Secretary Rogers Morton unburdens himself to newsmen at a private breakfast: He is "very uncomfortable" when he thinks about the possibility of a Russian drill ship showing up just beyond the U.S. 12-mile limit. What would the U.S. do? "That's a hell of a good question," he muses. On the issue of foreign fishing fleets off the U.S. coast, the Secretary calls for a "firmer" approach, and thinks that so far the U.S. has only "slapped people on the wrists -- haven't come down hard....We should extend our fishery...We don't have enough leverage with our present policy to take any leadership." Rep. Gerry Studds (D-MA) hails the remark as "the first concrete indication from an official of the Nixon Administration that 200-mile legislation might escape a Presidential veto..." H.R. 8665, the proposed legislation, now has 151 cosponsors in the House. The State Dept.'s William Sullivan (acting deputy coordinator of ocean affairs) predicts to a group of New England fishermen: "The U.S. is shortly going to have a substantial degree of control of its coastal fisheries...We will be taking an increasingly stronger position dealing with the foreign fishermen off our coasts..." Sen. Warren Magnuson (D-WA) announces more hearings on his bill to extend the contiguous fishery zone of the U.S. to 200 nautical miles. S. 1988 now has 21 cosponsors.

Volume 16, Number 26, June 28, 1974

GENERAL DEBATE IS SCHEDULED TO BEGIN TODAY (28JUN) IN CARACAS at the Third U.N. Conference on the Law of the Sea (LOS-3). This week-long debate is primarily for the benefit of non-Seabed Committee members, and follows the first week's hassle over the rules of procedure. There's the chance, of course, that the procedural wrangling will continue into next week and overlap the general debate. At stake is the U.S. desire for use of consensus decision-making at all stages of the conference.

Not much has occurred in the first few days at Caracas, OSN's man-on-the-spot reports. LOS-3 officially opened with speeches by U.N. Secretary-General Kurt Waldheim and host Venezuelan President Carlos Andres Perez. Waldheim stressed the need for the conference to reach "a balance which enables us to exploit the riches of the sea while preserving the interests of all." Following his plea that "we must try to ensure that the new law of the sea will endure as the foundation of man's uses of the sea," Waldheim suggested that: "The conference might well consider whether some institutional means should be created whereby, within the framework of the new convention, common measures could be agreed upon and taken as necessary from time to time so as to avoid obsolescence under changing world conditions. A periodic assembly of states who are parties to the convention, to review common problems and to develop ways of meeting any difficulties produced by new uses of the seas, would be one possibility to consider."

The conference General Committee allocated work to the three main committees (along the same lines as the Seabed Committee): Committee 1 -- seabed regime; Committee 2 -- economic zone and all other agenda items not assigned to Committees 1 & 3; Committee 3 -- pollution and research. In addition, the topics of peaceful uses of the ocean and universal participation in the LOS treaty were assigned to plenary session. All the committees may consider (1) regional arrangements, (2) responsibility and liability for damage to the marine environment, (3) settlement of disputes, and (4) peaceful uses of the ocean.

In his opening statement, Ambassador Amerasinghe, president of the conference, openly alluded to the necessity for continuation of the conference in Vienna next summer: "...Even if we do not have a treaty after 10 weeks, we will have laid the foundation for final agreement..."

Incidentally, some housekeeping notes: The Parque Central (conference headquarters and housing for many delegates) is a fantastic complex of apartments, shops of every description, U.N. offices, delegation offices, and restaurants. "You name it, it's here," says OSN's man -- all brand new and thoroughly modern, a tremendous accomplishment by the Venezuelans. Security is extremely tight.

At a press conference before LOS-3 convened officially 20Jun, the head of the U.S. delegation, Ambassador John R. Stevenson, defined the conference's purpose as the preparation of a "constitution" for the oceans. The U.S. basic position at LOS-3 was put on the record as follows: (1) Territorial sea of 12 nautical miles; (2) "Unimpeded" transit through & over international straits; (3) "Broad" coastal state jurisdiction over living & non-living coastal resources beyond the tersea "to protect the interests & needs of coastal nations, coupled with coastal state duties to respect the interests of other nations & the international community"; (4) "Protection" of the marine environment; (5) Creation of an international "regime & macinery" for exploration & exploitation of the deep seabed "as the common heritage of all mankind"; (6) "Protection of the interests of all nations in access to and benefits from increased scientific knowledge of the oceans"; and (7) Compulsory settlement of disputes.

Within those seven areas, Stevenson identified certain specific issues. For example, if the coastal state is to keep the fish within its jurisdiction, it would do so only to the extent it has the capacity to fully utilize the fish; its control would not interfere with navigation and other uses of the area, including scientific research; coastal states would be allowed some control over anadromous fish, while international arrangements would be made to cover oceanic fish.

Stevenson said it was a matter of "critical importance that a treaty emerge within the next two years" -- alluding, like Amerasinghe, to the likelihood of the Vienna meeting in 1975. To have a treaty that quickly would require "an important act of political will" by LOS-3 nations, he said. The areas which show the most promise of early agreement are the 12-mile tersea and coastal state resource control beyond. He foresees an early consensus on transit through straits and a deep seabed regime. Even though Stevenson sees it as an area of consensus, the U.S. continues to take a tough stand on passage through straits. This country wants not only "unimpeded" transit but "nondiscretionary" transit, thus forbidding the coastal state to regulate passage in terms of ship type (submarine, supertanker, nuclear-powered) or the destination of the cargo. "We don't want a number of Berlin Corridors around the world," is the way the head of the U.S. delegation summed up the matter, apparently once and for all.

TERRITORIAL SEA AND RESOURCE ZONE QUESTIONS DOMINATE DELIBERATIONS at the Caracas meeting of the Third U.N. Law of the Sea Conference (OSN, 14&28Jun). A document which provides a kind of scorecard for those discussions is available from U.S. State Dept. Office of the Geographer ("Limits In the Seas #36"). The study notes that 100 of the 120 coastal states still claim no more than a 12-mile tersea, but the resource zone claims that already exist are far more numerous than the casual observer might think. Australia, Malta, Norway, Poland, South Africa, and the U.S. claim exclusive fishing rights to 12 nautical miles even though their terseas range from 3 to 6 miles; Chile has a 200-mile maritime zone with a 3-mile tersea; Haiti claims exclusive fishing rights to 15 miles with a 12-mile tersea; Iceland, Iran (in the Persian Gulf), and Oman have 50-mile fishing zones; Morocco claims exclusive fishing in some areas to 70 miles; Senegal has a 110-mile fishing zone; Nicaragua has a 200-mile fishing zone; Pakistan claims rights of fishery conservation to 112 miles; South Viet-Nam licenses foreign fishing vessels to 50 miles.

Varying rights are claimed beyond their terseas by a number of countries: Egypt, Saudi Arabia, Syria, and Yemen (Aden and Sana) to 18 miles; Venezuela to 15 miles. These claims of resource zones, plus various pollution zones and other limitations -- plus the 20 states with terseas of more than 12 miles (nine states have 200-mile terseas) -- make it a political ocean!

Volume 16, Number 28, July 12, 1974

THE U. N. LAW OF THE SEA CONFERENCE IN CARACAS HAS ADOPTED a delicately wrought (mainly by Conference President H.S. Amerasinghe) compromise on the rules of procedure. The major questions, and solutions arrived at:

* Voting Majority on Substantive Issues. In the three Main Committees, substantive action can be taken by a simple majority of states present and voting, thus applying the traditional General Assembly rules (abstaining votes are not counted in determining the majority). In Plenary session (the final arbiter of all LOS treaty articles) substantive decision can be taken only by (a) 2/3 of the states present and voting, provided (b) the affirmative votes constitute at least a simple majority of the participating states. Thus if 150 nations participate, a minimum of 100 must be in the hall for action to be taken (2/3 quorum requirement), and just 2/3 of the 100 (i.e., 67) cannot carry the day because of item (b) which requires 76 affirmative votes (simple majority of participants). If every nation shows up and votes, it takes 100 yes votes to carry a substantive motion. With 150 attendees, a 76-38-36 vote would pass, abstentions not being counted [76 is 2/3 of the 114 votes cast yea or nay, and also meets test (b)].

This was a compromise submitted by Australia to bridge the gap between less developed countries -- (LDCs favoring lower majorities, e.g., simple majority) and developed countries -- (DCs and landlocked states favoring higher majorities, e.g., 2/3 of all LOSC participants). Many observers view the arrangement as quite satisfactory -- if not outright favorable -- for the U.S. and other major powers, though no delegation would formally say so. In fact, Peru and U.S.S.R. voiced strong reservations to the voting formula, while accepting the consensus decision.

* Implementation of the "Gentlemen's Agreement." Voting should be the exception rather than the rule, however. Amerasinghe presented a "package deal" to implement the "consensus" principle consisting of (a) an LOSC declaration of the "gentlemen's agreement" (no voting on substantive matters may take place until all efforts to reach consensus have been exhausted); (b) cooling off periods (to avoid precipitous voting); and (c) a determination of the majority required to find that all efforts at consensus have in fact been exhausted.

The ultimate compromise consists of the following procedure, incorporated in the Rules of Procedure: (1) no substantive matter can go to a vote until all efforts at consensus have been exhausted; (2) the question of "exhaustion" is to be decided, if not by general agreement, than by the same majority as for voting on substantive issues in Plenary; (3) but, when a matter comes up for a vote, the presiding officer may (or on the motion of 15 delegations is required to) defer the vote one time for a maximum of 10 days (the "mandatory" cooling off period); (4) thereafter, on motion by any nation and approval by a simple majority, any number of additional deferments may be obtained; and (5) finally, when no more deferments are sought or achieved, the question of exhaustion is put to a vote -- if it passes, two more days are allowed before voting on the substantive issue takes place (allowing delegates to secure home instructions, if necessary).

If it sounds complicated, it is. In essence, the rule permits deferment of voting on substantive matters until all possible efforts at compromise have been used, and only permits

voting when a large majority of states believe that further negotiations would be fruitless. Thus, the system provides not only protection for minorities, but also ensures that every possible effort will be made toward reaching agreement by consensus rather than through polarizing votes.

* Voting on Final Treaty as a Whole. In an optimistic vein, the delegates also labored over the majority required for adopting an LOS treaty as a whole (after its constituent parts have passed Committee and Plenary sessions). Here the landlocked states and major powers again sought high majorities, while LDCs held out for lower requirements. At issue, too, was whether the deferment procedures outlined above would be applicable to this most crucial of all votes. The compromise: (a) same majority as for substantive decisions (the Australian compromise); (b) no deferments of the type outlined above; and (c) a four day delay between presentation of the final text and voting thereon.

Having gotten by the procedural question in apparently admirable fashion, the U.S., the U.S.S.R., and the U.K. moved quickly to announce their conditional support for a 200-mile economic zone (as predicted, OSN, 14Jun). The U.S. qualified its position by calling for "correlative coastal state duties"; the Russians demanded "simultaneous agreement among the participants of the Conference" on tersea breadth, straits, navigation, and scientific research" plus giving the coastal state the right to allow foreign fleets to fish within its zone; the U.K. conditioned its acceptance of the 200-mile zone concept on "establishment of satisfactory rules for such a zone as well as for freedom of navigation."

Volume 16, Number 29, July 19, 1974

IT'S COMMONPLACE TO SAY "THE REAL WORK IS DONE IN THE COMMITTEES," BUT IN CARACAS (THE THIRD U.N. CONFERENCE ON THE LAW OF THE SEA -- LOS-3) there's a back room behind the smoke-filled room... While publicly announced and even trumpeted "draft articles" for a treaty are being submitted daily, and are worth noting, of course, these submissions don't have the significance they might have, because of the process of consolidation & consensus which LOS-3 has adopted.

The consolidation phase is going on right now, and involves reducing commonly held positions (for example, how maritime powers feel about straits) to a single text. The idea is to get the fewest possible texts on each subject on the agenda of each of the three Main Committees of the Conference. Then comes the consensus phase: The business of getting the proponents of the divergent texts together on a single treaty article. All this is in line with the ultimate objective of LOS-3: "...the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance..."

All three Main Committees have now adopted work plans and are beginning substantive efforts.

* Committee 1 (seabed regime) will have a week of general debate, then two weeks of a "third reading" on the draft articles on regime and machinery. Chile urged emphasis on the issue of economic implications of seabed mining and that the seabed regime should apply to sedentary living resources and in-solution minerals, as well as nodules.

* Committee 2 (territorial sea; economic zone; etc.) began a discussion on the tersea and related issues. Two main trends quickly emerged: (1) a "traditional" narrow (12 nautical miles) tersea, subject to innocent passage, and some form of limited economic zone beyond; and (2) a broad (200 nautical miles) area in which the coastal state has competence to decree a "plurality of regimes" (e.g., a 12-mile tersea and an 188-mile economic zone). The critical difference concerns the residual authority in the economic zone. The U.K. submitted draft articles on the tersea and straits, including a redefinition of innocent passage in the tersea containing objective criteria by which to measure "innocence." The U.K. proposal for "transit passage" (a new term) spells out in some detail the rights of both transiting vessels and straits states. Spain countered with a straits proposal providing in part that "the sovereignty of a coastal state extends to straits forming part of the territorial sea, whether or not they are used for international navigation." Again, the difference lies in residual competence.

The agenda items allocated to Committee 2 will be discussed one by one in formal and informal meetings of the whole Committee, although ad hoc groups may be formed if necessary. Each item will be assessed in terms of "main trends" and "acceptable formulas to reflect those trends," but no decisions will be taken in this first run-through. After the "modified" general debate, work will begin with a view toward reaching agreement on treaty articles in several areas by the end of the session (emphasis being on the economic zone and related matters).

* Committee 3 (scientific research; pollution) formed one working group on pollution -- to be chaired by Mexico's Vallarta -- while Chairman Yankov will temporarily chair an informal meeting of the whole committee on scientific research. The two subjects will be discussed on alternate days. Ad hoc drafting and negotiating groups may be formed later.

Almost at the halfway mark (today, 19Jul, LOS-3 begins the fifth week of its scheduled 10 week Caracas meeting), it's not too early to attempt some sort of overall evaluation of what has been going on, and make some predictions of what to expect. Corridor discussions raise several possibilities. Most unlikely: the "Treaty of Caracas." Quite possible: treaty articles (whether by general agreement or vote in committees) on a wide range of subjects, centering around the economic zone concept. Also possible, but less desirable from the major powers' view: a "Declaration of Caracas," akin to the General Assembly seabed regime principles, covering the economic zone and related matters. That would save face for the Latins, who see Caracas being lost in the shuffle if the final LOS treaty emerges from Vienna.

One of the major successes at Caracas is obviously the quick, and relatively painless, settlement of the rules of procedure question (OSN, 12Jul). Peoples Republic of China (PRC) and the less developed countries (LDCs) feel (and publically state) that by incorporating the "gentleman's agreement" into the procedural rules in terms of specific majorities required to permit voting and to take substantive action, they have blocked the "veto" power of the U.S. and U.S.S.R. The "consensus" principle standing alone, in the Chinese view, approaches a unanimity requirement which would give the major powers a stranglehold on LOS-3.

On the other side, the U.S., U.S.S.R., and other major powers have secured an agreement on a reasonably high voting requirement (2/3 states present and voting, affirmative votes to include a simple majority of states participating in LOS-3) that gives fair protection to their vital interests. This is especially true in view of the "overall package deal" approach to which LOS-3 now seems committed. (That's the new buzz word -- "package deal" -- reiterated by most delegations from all regions and stages of economic development; and indicating a clear consensus that all interests must be accommodated or else LOS-3 will fail.) The adoption of the rules of procedure is, of course, in the nature of a consensus compromise; no one is perfectly satisfied, but everyone feels that his basic interests are adequately protected.

Incidentally, LOS-3 weathered its first major crisis on the eve of adoption of the procedural rules. China sought a rule amendment permitting challenges to delegates' credentials which had already been approved. Thei · target was rumored to be the delegation of the Khmer Republic (Cambodia); the U.S., of course, backs the Lon Nol government while China favors the deposed Prince Sihanouk. Neither side appeared willing to compromise; LDCs fell all over themselves siding with China in floor statements (Cameroon, Iraq, Peru, Cuba, Senegal, Pakiston, Morocco, among others). A compromise -- worked out in a tense 40-minute private session on the podium involving Amerasinghe, U.S., China, U.K., Australia, and assorted peacemakers -- allows such challenges only on majority vote of the delegates. No indication that China intends to press further now; most feel they're waiting for Vienna in 1975, and interim political developments.

The influence of the U.S. at LOS-3 is uncertain, although Ambassador John R. Stevenson, head of the U.S. delegation, attempted to put the U.S. into a leadership position in his general debate statement 11Jul. The key paragraph in his remarks: "We are prepared to accept, and indeed we would welcome general agreement on a 12-mile outer limit for the territorial sea and a 200-mile outer limit for the economic zone, provided it is part of an acceptable comprehensive package, including a satisfactory regime within and beyond the economic zone and provision for unimpeded transit of straits used for international navigation."

Thus the magic words "200-mile economic zone" have finally been spoken out loud by the U.S. delegation. The speech, moderate in tone, spelled out in detail the rights and duties of coastal states under an economic zone arrangement which would be acceptable to the U.S., the elements corresponding essentially to the draft articles on the Coastal Seabed Economic Area submitted by the U.S. last year, and the "species approach" for fisheries. Although the latter may have to be abandoned in name under the new U.S. formulation of coastal state rights/duties, the elements of that position remain the same -- coastal state management of sedentary, coastal, and anadromous species; international management of highly migratory species (tuna); with "msy" (maximum sustainable yield) conservation and full utilization as the operative principles.

On the question of possible accomplishments at the Caracas session of LOS-3, Stevenson stated "it is the view of my delegation that the Conference should strive to adopt an entire treaty text this summer." He noted further that "if we do not at least try to reach agreement on the treaty this summer, we may well not even achieve the basic minimum required to finish next year and in the interim prevent further unilateral action prejudicial to the success of the Conference." (U.S. Congressional action?)

As a minimum objective, Stevenson suggested that the session should "complete treaty texts on most, if not all, of the critical articles -- the territorial sea, straits, the economic zone, the seabed regime and the authority's functions, pollution from ocean uses, and scientific research." This objective would not be achieved, Stevenson continued, either by a "statement of general principles" or by articles specifying coastal state and seabed agency rights without reflecting their corresponding duties.

In other significant plenary action, Maurice Strong (head of U.N. Environment Programme) presented 16 points for LOS-3 consideration on ocean-related environmental issues. Strong concluded on the trend toward a broad economic zone: "I have taken no position from the environmental point of view on these zones as a concept... I am alarmed by the tendency to consider economic resource zones as in effect equivalent to the territorial sea. If that is the outcome of this Conference, important environmental and equity considerations shall have been swept aside." On the issue of exemption of naval vessels from certain international pollution agreements, Strong recommended "voluntary declarations and actions by individual states...that they intend to apply with full vigor, the relevant pollution control conventions to all state-owned vessels, even when some may technically remain exempt."

Six Latin American nations objected to Strong's comment on the economic zone. Typical of the reactions was that of Peru: "We consider that the executive director of UNEP has gone beyond his authority and has taken a partial attitude without foundation in attacking the stand of certain powers and commenting on subjects not in his competence."

Seabed mining (OSN, 10&24May) is at the top of everyone's list of problems and, appropriately, the U.N. Secretariat has produced a second supplement to its seabed mining economic implications study. The document now before LOS-3 places emphasis on the question of minimizing the economic impacts of nodule mining on mineral exporting LDCs. The study examines two basic approaches to that question: (1) compensatory systems (no explicit regulation of mining activities, with compensation paid to LDCs which, as a result of such activities, experience a loss in mineral export revenues); and (2) preventive systems (direct regulation by an international agency). By implication, the report favors preventive measures for nickel, copper, and manganese, yet states that "the most feasible way to minimize the impact of nodule development on developing countries producing cobalt would be by means of compensatory payments."

Some "preventive" systems discussed in the report: (1) Authorize seabed production of nickel only on the basis of increase in demand, thus assuring that "the maximum increase of production forthcoming from nodules would not reduce (LDCs') present volume of production" (actually, though, it's the price which concerns LDCs, not the volume of production). (2) Utilize inherent time lags in development/production to ensure that production does not exceed increases in demand. (3) Use indirect techniques to control the amount of production, e.g., "differential levies or royalties for each of the minerals to be recovered from nodules." (4) Limit production on the basis of price decreases (the report notes negatively, however, that "the compulsory reduction or suspension of mineral recovery from existing nodule operations

would present a number of technical, economic and political difficulties"). (5) Use commodity agreements (the role of which should, according to the report, "not be overemphasized").

How do you sum up Caracas at the halfway point? There is reason for some optimism, but don't get carried away. To remind you of the many very basic problems at LOS-3, we'll conclude this special report with a mixed bag of positions, attitudes, and ideas that are surfacing in Caracas, or being reemphasized: Jamaica is plugging Kingston as site of the seabed agency; the Latin group unanimously supports the proposal. A display just outside the plenary hall touts a new waterfront development project, including a building to house the agency.

Trinidad & Tobago (supported by Jamaica) conditioned its acceptance of a 200-mile economic zone on "recognition of preferential rights of access for every state within a region or subregion to the living resources of the economic zones of the other states." Trinidad, Jamaica, and most other Caribbean states do not fare well under a 200-mile zone with median boundary lines; the main effect is to cut them off from existing distant water fishing areas.

Ecuador remains hardline, stating that it would "not accept a convention which in any way diminishes the integrity of its rights over the renewable and non-renewable resources in the 200-mile zone." At the other extreme, West Germany gave a very conservative statement, conceding only that "if a general consensus should emerge among the Conference participants regarding such an (economic) zone, it would not, in principle, object to discussing such a proposal," but the area must "retain the status of high seas, thus preserving the freedom of navigation."

Cuba has been included in the Latin American group, over the objection of Chile (their participation is apparently limited to LOS-3, however).

The highest profile "bloc" so far is the geographically disadvantaged nations. They flexed their muscles on the voting issues before accepting the compromise grudgingly. The group is chaired by delegate Lenore Emich of Austria, and has articulate spokesmen, especially the delegation of Singapore. Numbering close to 50 states when you count land-locked, shelf-locked, and short coastline nations, this is obviously a force to be reckoned with at LOS-3.

Singapore's definition of "geographically disadvantaged states" includes (in addition to land-locked states) "island states in the Pacific area" (because of their isolation) and "states that are physically unable to claim an economic zone and those states which, although able to claim an economic zone, would not find it economically meaningful to do so." That definition makes for a whopping total of states !

In his plenary statement, Jack Davis of Canada supported economic controls for the seabed agency as well as the position of archipelagic states (on the latter he observed that "Canada is itself an archipelagic state...the Arctic archipelago is a classic example of a special area requiring special treatment"). India (also claiming now to be an archipelagic state!) announced its first successful conshelf petroleum discovery -- 110 miles offshore in 64 meters of water.

In its general debate statement, Denmark said it "cannot accept" proposals (presumably including that of the U.S.) for exclusive host state management of anadromous species: "It is a special problem which only concerns relatively few countries, not suitable for regulation in a global convention."

JAPAN CONTINUES TO TAKE A HARD LINE on the question of the 200-mile economic zone. OSN's correspondent in Caracas at the Third U. N. Conference on the Law of the Sea (LOS-3) reports the Japanese feel such a zone is not acceptable for fisheries, although it is all right for minerals. Twelve miles is the maximum acceptable fishing zone for the Japanese, who argued for a "just and equitable distribution or allocation" of living resources from the area beyond 12 miles, favoring regional and international management approaches: "We have consistently expressed our opposition to the establishment of exclusive rights of coastal states over fishery resources in a zone extending far beyond the limit of the territorial sea. It is the view of the Japanese delegation that such extension would result in a very inequitable situation in which a limited number of countries having fertile fishing grounds off their coasts would gain at the expense of the interests of other states." The stated reasons for Japan's position -- its interest as a distant water fishing state, and the need to avoid underutilization of fishery resources.

At the other extreme of the scale of economic development, Lesotho (most impoverished of the landlocked) argued strongly against the economic zone proposal. It would, they contended, constitute "annexation or nationalization" of the seas and might lead to a sea-oriented "colonialism" on the part of developing nations. They advocate "regional economic zones," with preferences for states of the region, including landlocked states.

It also seems to be dawning on some coastal states that the 200-mile economic zone only promises that the relatively rich get relatively richer. "Regionalism" is the immediate response, as have-not states seek to share in their neighbors' bounty. Of course, most states do not have abundant living or non-living resources off their coasts, so that 200 or even 2,000 miles may not do them any economic good. The economic zone remains definitely "in," but shifts among the less developed countries may give it some new twists before LOS-3 is over.

Committee work at LOS-3 moves ahead. In Committee 1 the main issues have been clearly identified: (a) the nature and composition of the organs of the seabed authority; (b) the system to be used for allocating exploitation rights; (c) how to handle the problem of economic implications for mineral exporting states; and (d) the drafting of rules and regulations to implement the general principles of the regime.

The "licensing" versus "enterprise" argument continues with very little evident support for the U.S. "non-discriminatory licensing" position. In its Committee 1 speech, the U.S. expressly rejected the "parallel" or "dual" system by which the authority would issue licenses or operate the area itself. Peru had earlier made a similar rejection, holding fast to its position that the authority should be the exclusive operator in the area. Japan backs a system which makes "full use of the efficiency of private enterprise while avoiding the inefficiency of bureaucracy." They favor the licensing system. Nigeria suggested that the seabed regime "be run like a business whereby those with technology will be encouraged and compensated, while other nations share equitably in the benefits." The Nigerian proposal was to use a licensing system to begin work. Then with the revenues gained from that phase the Authority would undertake operations itself.

The economic implications of seabed mining have been analyzed by the U. N. Conference on Trade & Development (UNCTAD). Studies on cobalt, copper and manganese have been introduced at Caracas, while one on nickel is not finished yet. UNCTAD concludes: (1) Seabed mining will mostly benefit consumers who are "by and large" industrial users in developed nations; (2) The effect on all mineral exporting states will be that revenues will grow less rapidly or even decline; (3) This impact will be particularly serious for developing mineral exporting states because they depend more heavily on such exports than do developed countries with diversified economies; (4) A "compensatory" approach (payoff for land-based mining export revenue loss due to seabed mineral mining) would be unworkable because of a lack of funds in the Seabed Authority; and (5) If compensation in some form is to be made, LOS-3 must arrive at a system of measures applicable in advance of production, either (a) through commitments of developed nations to make good any mineral export losses of developing nations resulting from seabed mining, or (b) by establishment of floor prices for such mining products.

The U.S. challenged the validity of some of the assumptions made in the UNCTAD studies and reserved its right to question the UNCTAD materials when the issue comes up for discussion. In its subsequent Committee 1 speech, the U.S. commented that production/price controls "may well decrease the benefits available from the sea including the benefits to consumers everywhere from the availability of a new supply of nickel and copper and the products made from those metals."

Volume 16, Number 31, August 2, 1974

OBSERVERS OF THE GOINGS-ON AT CARACAS WORRY that over half of the 70 days allotted for the session have passed -- without apparent progress on substantive issues. Virtually all the effort to date (OSN, 14&28Jun, 12, 19&26Jul) has been devoted to procedure, organization and general debate. Nothing has been submitted to the Drafting Committee that could produce a treaty. Yet, how realistic is it to ask for a "Treaty of Caracas" or even for finished treaty articles from this Third U. N. Conference on the Law of the Sea (LOS-3)?

And, is Caracas just a replay of the Seabed Committee preparatory sessions of Geneva and New York City (OSN, 7, 14&21Dec73)? If so, then is there any real chance of reaching any accords at Caracas -- or Vienna?

Already there is corridor talk of a post-Vienna session! That is, Caracas in '74; Vienna in '75; and Nairobi in '76. Arvid Pardo, for example, the architect of the "common heritage" principle, believes there are only "limited chances for partial agreements" by the end of the Vienna session next year. Optimists who have hoped for more from Caracas note only rhetoric by a few delegations about being ready to negotiate now, but mostly Caracas is an exhibition for the old and usually inflexible positions. The old wine is being served up in new jars -- the "consolidation and consensus" process described in 19Jul issue of OSN affords a new framework in which the long held positions of nations on the variety of issues before LOS-3 can be and have been restated and reordered. But substantive changes in position, indications of a willingness to trade one interest for another, or agreement on a single article by consensus -- all are missing so far.

Conference critics point out that the only people who really need rapid conclusion of LOS agreements are the U.S. and a few other maritime, technological, and fishing powers. Because these nations constitute a very small minority (so the argument goes), and because the vast majority probably best serve their national interests by delaying agreement, there is no way to force LOS-3 to real, productive work. The big powers have nothing whatever to trade or offer for the objectives they seek (straits passage for military vessels and aircraft, international residual rights in the economic zone, a non-discriminatory licensing system for seabed minerals, compulsory dispute settlement). The exclusive economic zone already has the acquiescence of the majority of nations and, in any event, the major powers apparently lack the will to contest assertions of 200-mile resource (and other) jurisdiction with force.

So what is there for the less developed countries to extract from the U.S., the U.S.S.R., Japan, and the Western Europeans? The LDCs already have (or can have for the taking) economic zones in which they'll probably hold residual powers for matters relating to scientific research, pollution, and the like; innocent passage through straits adequately protects LDC interests in commercial maritime transport; and they'll get a seabed regime which will protect their land based mineral economies and will give them great political influence (if not economic gain) over seabed mining. What more could they want? is the question, and they get it best (is the charge) by frustrating progress at LOS-3. Paul Engo of Cameroon summed it all up magnificently in his report to the Plenary concerning progress in Committee 1 (he is chairman). He admitted that although there was "motion," there was little if any progress, and that the delegates appeared to be operating "in a fog."

A widely understood -- but not explicitly stated -- principle governing the lack of negotiations at LOS-3 is that no progress can be expected in Committees 1 and 3 until the economic

zone concept is tied down in Committee 2 to the satisfaction of the Latins and other developing coastal nations. Thus, even slightly progressive suggestions in Committees 1 & 3 are squelched on the basis of "need for further study." Meanwhile, Committee 2 is mired down in general debate and informal discussions of working papers. Absolutely no negotiating is taking place there, and if the present schedule is adhered to, the session will close with nothing more accomplished than the preparation of a series of working papers which restate the positions of nations in a form not dissimilar to that in last year's Seabed Committee report. Chairman Andres Aguilar's (Venezuela) concept of reducing each of the 15 items assigned to his committee to a few "main trends" has been thwarted by nations which seek inclusion of their own detailed proposals on every item. Thus the working papers begin to more and more resemble the comparative tables which were already available when the Caracas session opened.

Volume 16, Number 32, August 9, 1974

IN AN ATMOSPHERE OF GLOOM, THE U.N. LAW OF THE SEA CONFERENCE is winding up its Caracas session -- with firm plans to move on to Vienna next year, and Nairobi (although the Japanese have offered Tokyo) in 1976.

Committee activities can be summed up as follows: All the remaining time (Caracas officially ends 29Aug) in Committee 1 will be devoted to haggling over the enterprise vs. licensing issue -- part of the overall seabed question. The Latins don't want to discuss detailed rules and regulations and are using the economic implications issue to divert U.S. efforts to discuss them. The final reading of 21 regime articles has been completed, and observers tell OSN there aren't any meaningful changes from the text completed in Geneva a year ago. Committee 2 (territorial sea; economic zone; etc.) will finish its work with a new comparative table which will not differ significantly from the Seabed Committee's report which was available when the Caracas session began 20Jun. Committee 3, in one observer's opinion has actually moved backwards (from the U.S. view), in that scientific research could end up being regulated outside the limits of national jurisdiction, as well as inside.

The best that can come out of Caracas in the way of international agreement, it seems to another observer -- a "Statement of the President," which would not require ratification by the delegates. President H. S. Amerasinghe (Sri Lanka) has suggested such a statement should not be confused with a declaration of principles -- that it would be a statement of the basic issues facing the conference. Indicative of the general attitude at Caracas was the comment by Sen. Edmund Muskie (D-ME) that the U.S. can't afford to wait for the conference to produce a treaty, because "there will not be a treaty at the earliest before next May or June and it might be longer than that." His view squares with last week's report (OSN, 2Aug) that Sen. Warren Magnuson (D-WA) intends to move swiftly to pass a U.S. 200-mile zone bill.

The single most explicit event of Caracas so far is the proposal by Canada, Chile, Iceland, India, Indonesia, Mauritius, Mexico, New Zealand, and Norway, draft articles to be used as "a possible framework for discussion." The 9-country proposal covers tersea, archipelagic state's rights, economic zones, and the continental shelf -- yet, in such a manner that U.S. delegation chief John R. Stevenson said the U.S. had "serious misgivings" about the approach. Stevenson wants, for example, not general articles about the economic zone, but "carefully drafted articles" which can be the subject of negotiation. "...we cannot negotiate in the face of conceptual arguments that one or another idea is incompatible with the 'essential character' of the zone. Arguments based on deductive reasoning from an abstract concept can only move us further apart," he warned. The 9-country approach leaves out too many specifics.

Some of Stevenson's complaints: "High seas freedoms recognized by the general principles of international law" are not clearly preserved in the proposal (an obvious reference to the straits question, among others); the lack of compulsory dispute settlement language; the failure to include coastal state duties insuring conservation and full utilization of fish stocks.

Probably the hardest-hitting remarks in Caracas have come from Mexican President Echeveria, when he spoke on the developed nations' approach to LOS problems. Tuna interests immediately reacted to his call for "complete renegotiation" of the Inter-American Tropical Tuna Convention as soon as LOSC is concluded. (It was unclear if he meant the Caracas segment or the whole LOS-3 procedure.) He hit particularly hard at the U.S.-U.K.-Japan position on non-discriminatory licensing for the seabed regime -- regarding it ironic that the same powers which sought "international standards" for the economic zone did not support a truly "international" seabed agency. His conception of a proper seabed agency is one that won't permit licensing to states or -- "far worse, to trans-national corporations," a procedure that would give rise to a "new form of colonialism" which would only benefit the industrially-advanced nations of the world.

Volume 16, Number 33, August 16, 1974

MUCH OF THE TALK AT CARACAS NOW CENTERS AROUND THE TIMING and location of the next session of the U.N. Law of the Sea Conference. President Amerasinghe favors an early spring session, as do most delegates. Presumably they are thinking that this leaves time for still another session before the General Assembly's 1975 deadline. (Many delegations express concern over the effect of Caracas on world public opinion.) But, unfortunately, Austria cannot offer Vienna as a site except in July-August, so the session may be held in Geneva. Wherever located, though, the odds favor a March-April session, probably of only 6-8 weeks duration.

Meanwhile, the Caracas charade continues: In Committee 1 the group of 77 (which numbers many more) submitted a proposal on the topic "who may exploit the area," which would authorize the seabed agency to directly conduct or control not only all seabed mining and related activities, but scientific research as well (this in the area beyond national jurisdiction). Other proposals have been made to give the agency powers much beyond regulation of seabed mining. This is probably being done only for bargaining leverage on other issues, but indicates how little advanced from the 1970-72 period the discussions in Caracas actually are.

In Committee 2 general debate has been concluded on the territorial sea, straits, and the conshelf (debate on the contiguous zone was deferred). The economic zone is presently under consideration, after which there remain 11 more items, including the sensitive and likely time consuming subjects of archipelagos and islands. After general debate on each topic, Chairman Aguilar and his staff prepare a working paper reflecting the "main trends" in the debate; these papers are subsequently debated (so far 'working paper' debates have dealt only with the territorial sea and straits) and end up looking very much like the comparative tables which were already available to LOS-3 in the form of the Seabed Committee's 1973 Report. At the present rate, this preliminary process will carry over to next year's session.

Committee 3 continues to muddle through alternative texts on pollution and scientific research. Here, as elsewhere, the only new aspects are proposals which polarize rather than forge consensus. For example, Canada and 9 co-sponsors introduced draft articles on a zonal approach to marine pollution (anathema to the U.S.) which provide that within the zone the coastal state has jurisdiction to adopt laws and regulations concerning activities of persons, vessels, installations, etc. for the purpose of protecting the marine environment and preventing pollution; included is the coastal state's right to enforce its laws and regulations in the zone.

Volume 16, Number 34, August 23, 1974

THE 8TH WEEK OF LOS-3 (Third U.N. Conference on Law of the Sea) saw some motion (but no negotiating), much of it generated by the U.S. Among other things, the U.S. delegation: introduced new comprehensive draft articles on the economic zone, fisheries, and continental shelf; and submitted draft rules & regulations in Committee 1 to govern seabed mining.

U.S. Draft Articles: The new proposals replace earlier U.S. draft articles on fisheries and the coastal seabed economic area. Summary of main provisions: Economic Zone -- Coastal states would possess "jurisdiction and the sovereign and exclusive rights...for the purpose of exploring and exploiting the natural resources, whether renewable or non-renewable, of the sea-bed and subsoil and the superjacent waters" in an area not to exceed 200 miles from the baseline. Other rights would be included in zone jurisdiction -- specifically, pollution control and scientific research -- but these would be limited by coastal state duties and other rules set out in earlier U.S. proposals on pollution and research. Coastal states would also be under obligations not to interfere with navigation and overflight in the zone.

Fisheries -- The coastal state is given "exclusive rights for the purpose of regulating fishing within the economic zone" but only subject to provisions concerning conservation, allocation, neighboring coastal states, landlocked states, international cooperation, and assistance to developing countries. The conservation standard would be "to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield," taking into account, among other items, "effects on species associated with or dependent upon harvested species (which) at a minimum shall be designed to maintain or restore populations of such associated or dependent species above levels at which they may become threatened with extinction." Allocation is to be based on the full utilization principle, with states obligated to permit foreign fishing where allowable catch is not entirely taken by their own nationals. A preference for traditional distant water fishing efforts is included. As for anadromous species, fishing within and beyond the zone "is prohibited, except as authorized by the state of origin." The host state is obligated to apply the general conservation and allocation provisions of the draft, however, which means that if U.S. nationals cannot take all of the allowable catch other nations must be permitted to do so.

Highly migratory species are to be managed in accordance with regulations of international or regional fishing organizations, with the actual regulation being performed by coastal states within the zone and the flag state beyond the zone. Such organizations are to include appropriate coastal and flag states, and would be authorized to adopt allocation regulations "designed to ensure full utilization of the allowable catch and equitable sharing by member states." The coastal state is to receive "reasonable fees for fish caught by foreign vessels in its economic zone."

Continental Shelf -- Most of the articles track the 1958 Convention, but the seaward limit is now defined as extending "to the limit of the economic zone or, beyond that limit, throughout the submerged natural prolongation of the land territory of the coastal state to the outer limit of its continental margin." The location of the latter is to be determined by an undefined system which would "provide a precise and permanent boundary between coastal state jurisdiction and the international sea-bed area."

The U.S. draft rules and regulations to govern seabed mining are too detailed to examine here in depth, but they are well oriented to the needs of the U.S. mining industry, a point for which the U.S. was criticized by the less developed countries. It is quite possible that debate on the U.S. proposal (plus a working paper outlining the issues involved in "conditions of exploitation" prepared by Christopher Pinto, chairman of the informal sessions of Committee 1) will consume much of the rest of the time at Caracas. Procedurally, this is good for the U.S. because inclusion of detailed rules and regulations in the treaty is a critical aspect of U.S. seabed policy.

Volume 16, Number 35, August 30, 1974

LOS-3 IS OVER IN CARACAS WITH NO DECISIONS HAVING BEEN TAKEN on substantive matters. The only agreements of the 3rd U.N. Law of the Sea Conference were the adoption of the rules of procedure and selection of a date and place for the next session of LOS-3, Geneva, 17Mar-3May75. The best that can be said for the Caracas meeting is that it accomplished some useful preparatory work. As a result of the efforts of the three main committees, there are now alternative treaty texts on almost all of the issues facing LOS-3. Unfortunately, this process did not bring the nations involved any closer to agreement. In its final week in Caracas LOS-3 also agreed that if a treaty were negotiated at Geneva a subsequent session would be held in Caracas for the purpose of signing the treaty. Thus the Latins may have a "Treaty of Caracas."

However, President Amerasinghe opined at a closing session that two post-Geneva sessions may be required to secure agreement. If the Geneva session is no more productive than Caracas it is virtually certain that the U.S. will adopt a 200-mile exclusive fishery zone and probably a deep sea bed mining bill in 1975, thus scuttling for the foreseeable future the possibility of reaching broad international agreement on law of the sea issues. H. Gary Knight of Louisiana State U. predicted to OSN that the future development of the law of the sea from that point forward will be by the customary law process, as nations engage in unilateral actions and have their claims accepted or rejected -- a course of action fraught with conflict potential.

To most participants in the Caracas session the outcome was "disappointing," "disillusioning," "a debacle," or worse. However, the U.S. negotiators continue to show an optimistic public face and can be expected to turn their efforts to (1) defending their performance at Caracas before the Senate Foreign Relations and House Merchant Marine Committees, and (2) opposing adoption of the 200-mile exclusive fishing zone bill by the Senate. For background on LOS-3, see "Caracas 74" and "U.N. Source Documents on Seabed Mining," available from Nautilus Press at $25 each.

Volume 16, Number 36, September 6, 1974

CONCLUDING OSN'S EXCLUSIVE WEEKLY COVERAGE OF LOS-3, here's a wrap-up of the work of the committees at Caracas (The Third U.N. Conference on the Law of the Sea -- LOS-3 -- 20Jun-29Aug):

First Committee (seabed regime) saw the introduction of four separate proposals for rules and regulations to govern seabed mining, submitted by the U.S., the Group of 77, the EEC nations, and Japan. An informal working group under the chairmanship of Christopher Pinto (Sri Lanka) was created, and presumably this working group will continue to thrash out the problems of rules and regulations in Geneva (17Mar-3May). At the end of the Caracas session the positions were as much polarized as at its outset -- the major technological powers seeking a seabed authority which would issue licenses to companies on a non-discriminatory basis pursuant to a comprehensive mining code, and the developing countries holding out for a monopoly seabed agency, with general guidelines inscribed in the treaty, empowered to enter into whatever arrangements for the exploitation of manganese nodules it viewed appropriate.

The Second Committee (tersea, economic zone, etc.) completed general debate on all 15 agenda items before it and chairman Andres Aguillar (Venezuela) also finished drafts of working papers containing alternative treaty articles reflective of main trends on each of the 15 subject matter issues. Thus, when the Geneva session opens, there will be available for review a set of alternative treaty texts on all of the critical issues before the Second Committee (economic zone, continental shelf, straits passage, preferential fishing rights, etc.). The basic economic zone issues have been clearly identified. Among them: (1) Some states want to agree first on the broad concept of an economic zone without reference to the details of the regime; others (particularly the U.S.) say they cannot agree to the concept alone, but must have all coastal state duties as well as rights spelled out.

(2) Some nations prefer that all rights in the zone not expressly granted to coastal states or the international community be reserved to the coastal state; others (especially the U.S.) would like to see this "residual authority" be beyond the competence of the coastal state. (3) On fisheries, the major issue is "exclusive" versus "preferential" fishing rights. Some nations want outright sovereignty over the zone while others would be satisfied with exclusive rights -- in either case distant water nations would be at the mercy of the coastal states for access. The preferential rights advocates would place an obligation on the coastal state to admit distant water fishing efforts when the allowable catch was not entirely taken by the coastal state. (4) Landlocked nations of each region seek a sharing of living (as well as non-living) resources taken from the economic zones of their coastal regional neighbors. (5) Many nations view control over scientific research and pollution in the zone as a necessary incident to their resource jurisdiction. Others (including the U.S.) want to apply separate, functional regimes for research and pollution, not necessarily linked to the resource jurisdiction aspect of the zone.

Peoples Republic of China, addressing Committee 2 on the economic zone question, accused the "superpowers" of attempting to restrict developing country sovereignty over resources in the economic zone. Taking the position that coastal states must have exclusive rights in the zone (including power over pollution and scientific research), China strongly opposed creating an obligation to permit access by distant water fishing states where allowable catch was not taken by the coastal state. In the Chinese view, the "superpowers" were seeking, through their proposals for preferential coastal state fishing rights, to "deny the exclusive character of the exclusive economic zone." Striking at the U.S. position on straits, China expressed its opposition to any "preconditions" on the acceptance of the economic zone principle, referred to the U.S. package as "blackmail," and argued for a distinction between merchant vessels and warships as regards a straits passage regime.

The U.S. defended its straits position for the nth time in Committee 2, addressing concerns expressed by straits states on national security, safety of navigation, and pollution matters. The package does not seem to be selling! In response to U.S. assurances that nuclear subs navigated more safely in submerged mode (a very questionable assertion), the Egyptian delegate inquired "safer for whom -- the crew or the population of the coastal state?" The U.S. appears to be on the ropes concerning the military aspects of its passage and overflight demands. A significant number of nations have expressly taken the position in Committee 2 that passage for merchant vessels should be separated from military passage; these nations favor unimpeded transit for commercial purposes, but seek restrictions on military vessels, including in some cases a requirement of prior authorization for straits transit. Thus, although some version of "free transit" seems assured for merchant fleets (with appropriate safeguards for coastal state environmental and other concerns), the fate of military submerged passage, and overflight as well as traditional navigation through straits, is in substantial doubt.

Mexico submitted a formal proposal in Committee 2 providing that: "No state shall construct or erect military installations or appliances on the continental shelf of another state without its consent." This would, of course, cover anti-submarine warfare tracking and detection devices, and developing country support for the proposal was well orchestrated.

Senator Stevens' (D-AK) comments on Japanese fishing irregularities in the North Pacific brought response from the Japanese, including members of the Diet. Legislator Masayoshi Ito rebutted Stevens' allegations that Japan was dangerously reducing stocks of Alaskan halibut, salmon, and pollock within 200 miles of the U.S. coast. Interestingly, Ito admitted that Japan is already paying fees for access to African countries' unilaterally declared economic zones, but suggested that "rich countries" such as the U.S., Canada, and the U.S.S.R. would not ask Japan to "pay for rights to fish" in their waters should the 200 mile economic zone be adopted by them.

In the Third Committee (scientific research, pollution), draft alternative articles were completed on most of the issues involved in pollution and scientific research. The developing countries are still holding out for the "double standard" with respect to protection of the marine environment, contending that overly restrictive environmental protection measures may inhibit their economic development. A range of alternatives is reflected in the articles on scientific research, running from a requirement of absolute consent of the coastal state to total freedom of research. The U.S. position appears to be in the center in this range, but there is no consensus on any of the proposals. The basic views on scientific research in the economic zone remain unchanged and there is a substantial move afoot to give the seabed agency control of scientific research in the area beyond national jurisdiction. Major technological powers favor free access to the zone for research (at least with respect to research unconnected with resource exploitation). Developing coastal states present a variety of mechanisms for coastal state control, ranging from a consent system in which "consent shall not normally by withheld" to an exclusive and absolute right of the coastal state to conduct or authorize scientific research in the zone.

Nigeria submitted the first formal proposal on technology transfer, providing for the establishment of "Regional Scientific Research Centers," to be sub-organs of the seabed agency, which would be responsible for advanced training and education, management studies, and publication of results of research. (For the LOS-3 story, order "Caracas 74" and "U.N. Source Documents on Seabed Mining" from Nautilus Press, $25 each).
