

Third United Nations Conference on the Law of the Sea

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Summary Records of Plenary Meetings 51st plenary meeting

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume I (Summary Records of Plenary Meetings of the First and Second Sessions, and of Meetings of the General Committee, Second Session)*

51st meeting

Thursday, 29 August 1974, at 10.10 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Question of the communication to the President of the General Assembly (concluded)

1. The PRESIDENT read out the following text of the formula to be included in the communication to the President of the General Assembly:

"I wish to inform you that the Third United Nations Conference on the Law of the Sea decided to recommend to the General Assembly of the United Nations that:

"(a) Papua New Guinea, which is already conducting its own relations as an independent nation be invited, if independent, to attend any future session of the Conference as a full participant or, if not yet independent, to attend as an observer;

"(b) The Cook Islands, Surinam and the Netherlands Antilles be invited to attend any future session of the Conference as observers or, should they by that time be independent, to attend as full participants."

2. Mr. TEMPLETON (New Zealand) thanked the Conference for having agreed to the request made by Australia, the Netherlands, and New Zealand to include the formula which had been read out in the communication to the President of the General Assembly. Nevertheless, his delegation believed that the opportunity of participating in future sessions of the Conference should not be limited to the four countries mentioned in the formula. The possibility of inviting other countries where appropriate should be kept open.

3. Sir Roger JACKLING (United Kingdom) shared the view expressed by the representative of New Zealand and proposed that the West Indies Associated States, which had the same political status as the four countries previously mentioned, be included in the formula. He reserved the position of his delegation with regard to any other countries pending a decision of the General Assembly on that point.

4. Mr. DE SOUZA (Jamaica), speaking on behalf of the Bahamas, Barbados, Guyana, Jamaica and Trinidad and Tobago, the Caribbean countries which were members of the British Commonwealth, welcomed the statement made by the representative of the United Kingdom concerning the invitation to be extended to the territories which were not yet independent. He was pleased that the United Kingdom had recognized the status of the West Indies Associated States and proposed that the phrase "and the West Indies Associated States" be inserted in paragraph (b) after the words "Netherlands Antilles" and that the conjunction "and" preceding those words be deleted.

5. Mr. YANKOV (Bulgaria) proposed that the words "full participant" used in paragraphs (a) and (b) be replaced by the words "State participating" which appeared in rule 40 of the rules of procedure.

The formula, as amended, was adopted.

6. The PRESIDENT reviewed the steps which would have to be taken, if necessary, in order to extend the next session of the Conference and suggested that the Conference should formally request the Secretary-General of the United Nations to advise the Director-General of the World Health Organization of the problem well in advance of the adoption of a General Assembly resolution with regard to the dates of the next session of the Conference. If there were no objections, he would take it that the suggestion was adopted.

It was so decided.

Introduction of document A/CONF.62/L.7

7. Mr. GALINDO POHL (El Salvador), introducing document A/CONF.62/L.7 on the settlement of disputes, said that the working paper was an attempt to combine the results of informal consultations held since 31 July by some 30 delegations representing all geographical groups and all levels of development. The question of procedures for the settlement of disputes had hardly been considered during the present session, but it would probably be given priority during the next session. The satisfactory solution of that question would greatly affect the final result of the Third United Nations Conference on the Law of the Sea.

8. The working paper, which was provisional in character, dealt with only some fundamental points and it would need to be completed and clarified. Once an agreement on the essential elements had been reached, it would be easier to arrive at a solution of the less important points.

9. His delegation believed that the Conference should first deal with the question of international disputes, basing itself on certain fundamental premises, in particular the following: first, the settlement of disputes by legal, effective means in order to avoid political and economic pressures; secondly, some uniformity in the interpretation of the future convention should be sought; thirdly, the recognition of the advantages offered by obligatory settlement of disputes, taking into account some exceptions which had to be determined with the greatest care; fourthly, the firm conviction that if the future convention was to be signed and ratified, then the system of the settlement of disputes must be an integral part and must constitute an essential element of that convention. It was thus assumed that the law was the most appropriate method of regulating international relations and preserving the quality of States, regardless of their political, economic and military might. That principle of strict legality, which implied the effective application of agreed rules, should be the principal element on which the future convention on the law of the sea would be based.

10. It would be regrettable if a solution similar to that of 1958 were to be adopted for the settlement of disputes. An optional protocol would appear to be totally inadequate; it would prove ineffective and would be an obstacle to the ratification and even the signing of the future convention. On the contrary, the incorporation of appropriate provisions in the instrument itself seemed to be the only effective solution, bearing in mind the great changes which the new convention would introduce into the field of conventional law of the sea. Nevertheless, even if the principle of strict legality were adopted, certain insurmountable obstacles, particularly with regard to constitutional and fundamental elements in the structure of States would remain. It was for that reason that among the exceptions to which obligatory jurisdiction did not apply were the questions directly related to the territorial integrity of States. Otherwise, the convention would go too far and might dissuade a number of States from ratifying and even signing it. The absence of obligatory jurisdiction in such cases, however, left open recourse to non-obligatory means of peaceful settlement.

11. It was to be hoped that there would be continuously increasing recourse to procedures which, while ensuring the objectivity and impartiality of decisions, would permit the solution of the problems of interpretation and application in the future convention since it would, particularly in the early years, inevitably give rise to controversies.

12. Of course, the developing countries in some cases had had disappointing experiences with the procedures for the obligatory settlement of disputes and they were somewhat reticent on that subject. That was, however, the only solution, and it was in the very interests of the developing countries in general, if political and economic pressures were to be avoided.

13. All those problems had to be examined with the care which their complexity demanded. He urged the developing countries to consider those difficulties with an open mind and to endeavour to find the appropriate remedies.

Consideration of draft resolution A/CONF.62/L.9

14. The PRESIDENT read out draft resolution A/CONF.62/L.9, sponsored by Colombia, Czechoslovakia, Egypt, El Salvador, France, Senegal and Thailand, expressing gratitude to the Government and people of Venezuela for their hospitality. He suggested that the draft resolution be adopted without objection.

The draft resolution was adopted.

Statement by the Rapporteur-General on the activities of the Conference

15. Mr. RATTRAY (Jamaica), introduced the draft statement of the activities of the Conference during the first and second sessions (A/CONF.62/L.8). The nature, form and tenor of the document was in accordance with the decision taken by the Conference as reproduced in paragraph 50: it was a concise, factual, informative and non-controversial statement of the work of the Conference. No qualitative judgement had been made on the work of the Conference; indeed, each delegation could make an objective report to its Government. The statement summarized the activities of the Conference from the organizing session in New York up to the Caracas session and the comments made by delegations on the first draft had been incorporated.

16. The document was divided into three parts: the first (paras. 1-13) was a historical summary of the facts since the inclusion of the item in the agenda of the General Assembly in 1967 up to the adoption of resolution 3067 (XXVIII) of 16 November 1973. The second part (paras. 14-31) summarized the first session held in New York in 1973. The third part (paras. 32-55) dealt with the activities of the second session.

17. He drew the attention of members of the Conference to paragraph 52 covering the decision on the next session of the Conference to be held at Geneva and to paragraph 53 which dealt with the final signing session to be held at Caracas. Paragraph 51 would be amended in accordance with the decision on the formula to be included in the communication to the President of the General Assembly. He pointed out that the draft statement would require minor modifications of form: in paragraph 41, reference would have to be made to the Palestine Liberation Organization and to a statement by the representative of non-governmental organizations. He hoped that the Conference would take note of the statement of activities without debate.

18. The PRESIDENT proposed that the Conference on the Law of the Sea take note of the statement of activities prepared by the Rapporteur-General.

It was so decided.

Statements by the Chairmen of Main Committees

19. Mr. ENGO (United Republic of Cameroon), Chairman of the First Committee, thanked Mr. Mott, Rapporteur of the Committee, whose report (A/CONF.62/C.1/L.10) had been distributed. The report would be amended slightly to take account of comments made during the last meeting of the Committee.

20. Without repeating his personal views, he described briefly the work of the Committee for the benefit of those participants

and observers who had not been able to attend its meetings. The Committee had from the outset been fully aware of its great responsibilities and of the divergences of views reflected in the summary records of the preparatory meetings of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. The revolutionary concept of the common heritage of mankind which had elicited a variety of conflicting interpretations had not been made sufficiently precise in 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 documents of the sea-bed Committee had, however, been useful in that they had stated clearly some of the controversial issues that had to be resolved if the Conference was to be successful.

21. He expressed his thanks to the delegations of the very many countries which had not participated in the preparatory work but had agreed, in view of the large amount of work still to be done, to limit their general statements as much as possible.

22. The Committee had held 17 formal meetings and 23 informal meetings. It had also engaged in intensive consultations. It had been able to clear the path sufficiently for negotiations to begin on substantive issues concerning the régime. On the basis of the views expressed by United Nations and United Nations Conference on Trade and Development experts on the major issue of the economic implications of sea-bed exploitation, it had tried to determine whether those implications would adversely affect producers of land-based minerals, particularly the developing countries, and what measures the international community could prescribe to compensate. The experts had all agreed that there would be adverse consequences and had differed only on their probable extent. He himself felt that some special machinery should be established under the International Sea-Bed Authority to study the problem and take appropriate measures. The majority of members of the Committee had not felt that detailed provisions could be included in the convention in an attempt to guarantee the absence of any adverse effects.

23. An exhaustive exchange of views had been held on the rules and regulations of sea-bed exploitation. Various proposals had been made on that subject, which had been called "Conditions of exploitation". It would now be possible to proceed with negotiations on the basis of a comparative table of those proposals.

24. Revision of the first 21 articles had made it possible to identify clearly the different approaches taken by countries to the questions as to who should exploit the area and how. He himself felt that it was necessary to choose between exploitation by the new International Authority and a *de facto* monopoly of a few technologically developed countries. The Group of 77 had submitted proposals which went some way towards meeting the concerns of the technologically developed countries. That crucial problem must be solved before any fruitful negotiation could be held on other aspects of the international régime and machinery. The progress made, particularly during the past week, by the Working Group established for that purpose under the chairmanship of Mr. Pinto, indicated that serious negotiation could now begin.

25. Taking account of the diversity of views represented within such a large Committee, it could be said that the results of its work were encouraging. However, the stage of fruitful negotiation had not yet been reached; no consensus had yet emerged on the major issues. But more could hardly have been expected. Progress had been made, but it was important to be fully aware of the difficult stages still to be dealt with; it could no longer be a question of seeking compromise formulas to preserve outdated concepts. In that spirit he appealed to all delegations to continue their informal consultations between the sessions and to go to Geneva with the firm intention of

negotiating without clinging to outdated national positions or trying to reopen useless general debates.

26. Agreement on the articles of a convention could not be reached unless they truly reflected the ideas inspired by the Declaration of Principles. The vast majority of States represented at the Conference could no longer tolerate a world dominated by a privileged few. There was no need to fear a collective dictatorship of the majority; the strengthening of the new International Authority should be a guarantee of that. But the convention would stand the test of time only if it replaced the monopoly of a few by rational exploitation of the common heritage of mankind for the benefit of all. The fears of those who were apprehensive about the "monstrous" powers of the new authority were not realistic. The adoption of a convention reflecting the principles of equality and consideration for the needs of developing countries would be an extremely important contribution to peace for present and future generations.

27. Mr. AGUILAR (Venezuela), Chairman of the Second Committee, said in its last meeting the Second Committee had taken note of the report prepared by Mr. Nandan and of the statement that he himself had made on the work of the Committee, the debates of the current session and the future prospects of the Conference. The Committee had worked very hard from 3 July to 28 August. It had managed to regroup the various working documents into a single text which would be transmitted to all States participating in the Conference.¹ Once States had the text summing up the main trends of the work and the proposals submitted during the preparatory period and during the Conference, they could continue their efforts before the Geneva session. That progress had been made possible, *inter alia*, by the efforts made by participants in informal meetings in a constructive spirit and by the fact that the Committee had not lost time on procedural questions or on minor drafting changes.

28. He felt he could say that the Committee had carried out its mandate and thanked his colleagues for their unstinting co-operation.

29. Mr. YANKOV (Bulgaria), Chairman of the Third Committee, said he had no intention of making an appraisal of the substance of the items considered by the Committee or of presenting conclusions that might commit its members. He would simply summarize the main issues considered by the Committee and outline the main areas of its future work.

30. In addition to the formal meetings, arrangements had been made for the Committee to hold informal meetings on the three items referred to it, namely, items 12 (Preservation of the marine environment), 13 (Marine scientific research), and 14 (Development and transfer of technology). The informal meetings on item 12 had been presided over by Mr. Vallarta and on items 13 and 14 by Mr. Metternich. Those meetings had made it possible to achieve significant progress in the negotiations and in efforts to prepare draft articles. He felt that the same procedure should be followed at the next session, at which, in accordance with the common understanding reached by the Committee, the general debate would not be reopened.

31. The Committee had worked in a spirit of compromise to elaborate the main elements of an "umbrella treaty" covering the three items in question. Certain fundamental problems were still outstanding. Generally speaking, they referred to the scope of coastal State jurisdiction and the rights and duties of other States with regard to marine pollution control and marine scientific investigation. He took the view that the Committee should concentrate on those fundamental problems and related matters at the following session, without awaiting the final outcome of the deliberations of the Second Committee on the scope of coastal State jurisdiction.

32. The Committee had already outlined the basic elements of the future convention with regard to the preservation of the marine environment. The draft articles set forth in document A/CONF.62/C.3/L.15 constituted a good foundation for the legal provisions of the "umbrella convention" on the preservation of the marine environment. Such provisions should relate, first, to a basic obligation to protect and preserve the marine environment; secondly, to particular obligations to take all necessary measures to prevent, reduce and control pollution of the marine environment from any source; thirdly, to obligations and rights relating to global and regional co-operation with a view to facilitating the implementation of the two previous categories of obligations; and, finally, to obligations to render assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution.

33. Apart from such essential elements, however, agreement had by no means been reached with regard to specific details and modalities.

34. Another important development that would facilitate the elaboration of draft articles was the agreement as to the method of work for consideration of the questions relating to standards, jurisdiction and enforcement. It had been agreed that the study and analysis of the rights and obligations of States would proceed in an orderly manner with reference to each of the seven categories of sources of marine pollution. In connexion with pollution from vessels and from dumping, three specific approaches had been recognized, emphasis being placed on the jurisdiction and rights of flag States, coastal States and port States respectively. It was hoped that early agreement would emerge in connexion with pollution from land-based sources, dumping and activities concerning the exploration and exploitation of the sea-bed. Views were more sharply divided in the case of pollution from vessels.

35. The study of other questions, such as responsibility, immunities and settlement of disputes, would have to await the subsequent stage of work of the Conference. He emphasized the need to arrive at a better understanding on the distinction between standard setting and enforcement measures. Another outstanding problem related to the economic factors relevant to marine pollution control. It would be expected, however, that work on item 12 would henceforth proceed more rapidly.

36. As to marine scientific research, the sea-bed Committee had transmitted virtually no basic texts or alternatives to the Third Committee. At the request of the latter, the Secretariat had prepared an informal comparative table of all the proposals submitted to Sub-Committee III of the sea-bed Committee. Those proposals related principally to the following questions: definition and objectives of marine scientific research, conduct and promotion of marine scientific research, and international and regional co-operation, including exchange and publication of scientific data.

37. During the informal meetings, general agreement had been reached on some texts relating to general principles and international and regional co-operation in marine scientific research. After intensive negotiations, the five alternative texts concerning the conduct and promotion of marine scientific research—relating both to the right to conduct marine scientific research and to the question of consent—and the participation and obligations of coastal States had been reduced to four alternatives reproduced in document A/CONF.62/C.3/L.17. They represented the two main trends, namely, the requirement for prior consent and authorization by the coastal State before other States could carry out research activities within a zone under the coastal State's jurisdiction, and the doctrine of freedom of scientific research beyond the territorial sea of the coastal State. At the next session of the Conference, the Committee should ponder on that problem and try to find a generally accepted formula. On the question of scientific re-

¹See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III, document A/CONF.62/L.8/Rev. I, annex II, appendix I.

search, the Committee had moved from the stage of general discussion to that of negotiations and the drafting of articles.

38. The Committee's work on the development and transfer of technology was still at an early stage. The secretariat had prepared a study on that question, but so far only two formal proposals had been submitted to the Committee. Owing to lack of time, the Committee had been unable to deal with the item, and would therefore have to consider it at the next session.

Statements by the Chairmen of regional groups

39. Statements of appreciation to the Government and people of Venezuela, the President and other officers of the Conference, the United Nations Secretariat and all others involved in the organizing and smooth running of the Conference were made by Mr. CISSÉ (Senegal), speaking as Chairman of the group of African States, Mr. PANUPONG (Thailand), speaking as Chairman of the group of Asian States, Mr. PISK (Czechoslovakia), speaking as Chairman of the group of Eastern European States, Mr. GALINDO POHL (El Salvador), speaking as Chairman of the meetings of the Latin American countries, Miss MARTIN-SANE (France), speaking as Chairman of the group of Western European and other States, and of the European Economic Community, and Mr. ABDEL HAMID (Egypt), speaking as Chairman of the group of Arab States.

Statement by the Minister for Foreign Affairs of Venezuela

40. Mr. SCHACHT ARISTEGUIETA (Venezuela) expressed the deep satisfaction of the Government and people of Venezuela at the work carried out at the Conference. It had been a privilege for Caracas, for Venezuela and for Latin America to serve as the site of the current session.

41. It had been necessary to express freely and in a constructive spirit the diverse points of view of the various countries, to clarify positions, to formulate new concepts, and to establish a basis for future negotiations. The decision to designate Caracas as the site for the signing of the new convention was an honour for his country, since that instrument was designed to provide the means for bringing well-being and prosperity to the peoples of the world and establishing a new order of relations between them.

42. It had never been expected that the current session of the Conference would achieve definitive results. But as a first step towards the final objective, the Caracas session had amply fulfilled the purposes for which it had been convened.

43. As the President of the Republic of Venezuela had indicated in his statement at the opening of the session, the Conference was the most important international event that the world had witnessed.

44. The people and the Government of Venezuela, having at that time felt the pride and realized the enormous responsibility of the occasion, were now profoundly gratified by the achievements of the Conference—which had been for Venezuela an exciting intellectual experience that had widened man's horizons. It had also been an extremely salutary experience, an example of the devotion to duty shown by delegations and of their ability to engage in common tasks for the welfare of mankind.

45. The current session offered excellent prospects for the future, having pointed the way towards new and positive alternatives. A new page in the history of the law of the sea was being written.

46. The session was being concluded without any sense of frustration, although some held the view that the work of the United Nations was confined to mere ceremonies of little historical significance. But the very fact that delegations had met for the third time to discuss and negotiate a convention on the law of the sea, and to express, as they had done, their willingness to bring the negotiations to a positive conclusion, was a

tangible demonstration of the superficial thinking of those who unjustly criticized the work of the United Nations.

47. Furthermore, such critics were prompted by powerful interests that defended their privileges at all costs, oblivious of the fact that no policy on the sea and no law could be rational and creative if founded on arbitrary claims or on the exclusive monopoly of the major Powers.

48. Recalling the importance of the sea to the future of mankind, he reaffirmed the Venezuelan delegation's position that the sea should not be enjoyed by only a few countries while others were plunged in poverty, as had been the case with the resources of the earth. Those who opposed the work of the Conference were apprehensive about the emerging possibility of the establishment of a new international economic and legal order which would be more just and would regulate relations between all peoples of the world with equity and justice. Opponents of the new order might try to disregard the new realities of international life, but the peoples of the world would continue their struggle to establish new concepts of agreement, justice, peace and equity.

49. Negotiation was a slow process, but preferable to the old tradition of conflict and war. The sea should be an instrument of peace and justice, a source of collective wealth for all nations and an instrument for redressing the balance in the world. The current session of the Conference had concluded its work, which would be hailed by generations to come as the most serious initial attempt to codify and harmonize the norms for dealing with the complex political, social, economic and cultural problems connected with the new era of exploitation of the resources of the seas. The work of the Conference, however, had not been completed, and all countries should continue their efforts to further the work of the current session and reflect on the difficult issues with a view to finding compromise solutions and formulae which would satisfy the interests of the great majority of countries.

50. On behalf of the President of the Republic and the Government and people of Venezuela, he expressed his thanks for the statements of appreciation. Venezuela was proud that distinguished representatives from all countries of the world had met in Caracas to discuss the highly important items on the agenda of the historic Conference. He warmly thanked the President of the Conference, the United Nations authorities and Secretariat and the organizing committee for their co-operation.

Closing statement by the President

51. The PRESIDENT, recalling the background to the work of the Conference, said that the sea-bed Committee had approved, in August 1972, a comprehensive list of subjects and issues relating to the law of the sea to be dealt with by the Third Conference and had started to prepare for the Conference draft treaty articles embodying the international régime on the basis of the Declaration of Principles adopted by the General Assembly as resolution 2749 (XXV). That list of subjects and issues had become the *damnosa hereditas* of the Conference inaugurated during the twenty-eighth session of the General Assembly in 1973. The scope and magnitude of the mandate assigned to the Conference had made it one of the most ambitious undertakings in international relations, for it embraced the establishment of an equitable international régime, including international machinery for the area and 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, and a broad range of related issues including those concerning the régime of the high seas, the continental shelf, the territorial sea including the question of its breadth and the question of international straits and the contiguous zone, fishing and conservation of the living resources of the high seas including the question of the preferential rights of coastal States, the preser-

vation of the marine environment including the prevention of pollution, and scientific research.

52. The inaugural session of the Conference had dealt with matters of organization and the draft rules of procedure, but it had not adopted those rules, so that, when the Conference had begun its second session, it had had to devote the first week exclusively to their consideration and adoption. The rules of procedure had been adopted by consensus; that had been no mean achievement, but it had been only a beginning. The Conference had then heard general statements by a large number of delegations. The time left for discussion of substantive issues at the second session had therefore been extremely limited.

53. Even before the second session had opened, it had been clear that its mandate was so comprehensive and its substance so complex that there was little hope of achieving definite results in the form of a single text or even a few alternative texts on each issue. So far there had been no agreement on any final text on any single subject or issue, despite the lengthy deliberations in the sea-bed Committee. Some legitimate satisfaction could, however, be derived from the thought that most of the issues, or at least most of the key issues, had been identified and exhaustively discussed and the extent and depth of divergence and disagreement on them had become manifest. The criterion of success should not be what each one desired to achieve, but what could reasonably be achieved taking all circumstances into consideration. With regard to the second criterion, the Conference had made progress. Although differences did exist and delegations might have tenaciously adhered to their respective positions, it had not been a sterile exercise. The Conference knew where it stood and in which direction it had to move. The stage of discussion in the form of general statements was over. The time had come for active, serious and earnest negotiation. To those who felt disappointed at the lack of achievement of the Conference, he recalled that the darkest hour came just before the dawn.

54. Commenting on the work of the various Committees as he saw it, he said that the First Committee had had before it a series of draft articles covering two broad subjects: first, the status, scope and basic provisions of the régime based on the Declaration of Principles in General Assembly resolution 2749 (XXV); and, secondly, the status, scope, functions and powers of the international machinery to give effect to those principles. The draft articles, which comprised alternative formulations on the main issues of substance, had been prepared by the sea-bed Committee and had been used as the basis of the discussion. The First Committee had reviewed the draft articles on the first of those two subjects and had been able to narrow the areas of disagreement considerably; the first 21 articles had been refined to an advanced stage. What was still more significant, however, was that the Committee had been able to isolate three main areas in which a reconciliation of views was believed to be essential to progress: the system of exploration and exploitation and who might explore and exploit the area; the conditions of exploration and exploitation; and the economic aspects of sea-bed mining. After a detailed discussion of those subjects the Committee had concluded, in his view correctly, that the stage of negotiation had been reached. Negotiations had now begun on the first 21 draft articles, particular emphasis being laid on the system and conditions of exploration and exploitation. The choice still lay between the establishment of an International Sea-Bed Authority that would have comprehensive powers, including that of exploring and exploiting the area on behalf of mankind, and an Authority whose role would be far more restricted in scope and confined merely to the regulation of the exploration and exploitation of the resources of the area by others. The work done by the First Committee at the current session clearly reflected a change of both pace and quality; it had moved from the stage of discussion to that of serious negotiation. Once the problems relating to the régime had been resolved, it should be able to go ahead

rapidly through the draft articles on the international machinery. Although it was too early to be optimistic and there were no grounds for complacency, he felt confident that the Committee's next series of meetings in Geneva would be most constructive and fruitful.

55. The Second Committee had also made very appreciable progress. The Committee had forged a most valuable working instrument on each of the subjects it had considered. Without implying that other subjects and issues before the Committee were of less importance, he suggested that elements of general agreement were discernible on such crucial issues as those relating to the territorial sea, the exclusive economic zone, straits used for international navigation, and archipelagos. The relationship between the concept of the exclusive economic zone and that of the continental shelf had also been examined, and rational and just solutions regarding the mineral resources of those areas had been sought.

56. One of the most disturbing aspects of the work of the Conference and one that characterized the work not only of the Second Committee, but also of the First and Third Committees, was that the solution to the problems of the land-locked States and States that considered themselves geographically disadvantaged continued to elude the Conference. States that had, through historical accident or geographical eccentricity, been denied direct access to the sea and States which, owing to a variety of factors, had been deprived of the substantially greater portion of the advantages that a coastal State could enjoy had special problems, which must be viewed sympathetically and constructively by other more fortunate States. The land-locked and other geographically disadvantaged States, on the other hand, might well be advised to seek a solution with restraint so as to elicit and encourage the co-operation of the coastal States. A solution to the problem could go far towards paving the way to progress. If the developing countries failed to recognize what their common interests were, they would forfeit all claim to understanding from the developed nations. He was not suggesting a confrontation between the developing and the developed, but observed that it was only natural that if the developing world spoke with a divided voice, the developed world would not be able to detect the authentic voice of the developing world.

57. The Third Committee had been able to work out a series of common texts or texts which appeared to command wide support on a number of important issues relating to the preservation of the marine environment, including the basic obligations of States in regard to the preservation and protection of the marine environment, the right of States to exploit their own natural resources, the particular obligations of States to prevent, reduce and control pollution, the obligation of States not to transfer pollution from one area to another, global and regional co-operation, and technical assistance. Common texts relating to the item on marine scientific research and development and transfer of technology included general principles on the promotion and conduct of marine scientific research, and international and regional co-operation for marine scientific research, including exchange and publication of scientific data. One set of problems which still remained unresolved related to the rights and obligations of coastal States in areas within their jurisdiction, and the rights and obligations of an International Authority in an area beyond that jurisdiction. The Committee had not yet been able to formulate common texts regarding the important issue of standards, jurisdiction and enforcement in relation to the rights and obligations of coastal States, flag States and port States. The identification of those areas of critical concern would encourage the process of resolution and reconciliation at the beginning of the next session. Although the subject of the transfer of technology had not been discussed in detail, interesting proposals had been made which could well form the basis for discussion and perhaps negotiation at the next session.

58. Two items had been allocated for consideration by the plenary meetings, namely, item 22, "Peaceful uses of the ocean space and zones of peace and security", and item 25, "Enhancing the universal participation of States in multilateral conventions relating to the law of the sea". Although those were important issues, the Conference had not yet been able to discuss them. Item 22 fell exclusively within the competence and capacity of the Conference, and care should be taken to avoid encroaching on the domain of other organs and bodies functioning in that area under United Nations auspices. With regard to item 25, it could be said that the elaboration of a new law of the sea through a procedure in which every effort was made to reach agreement on substantive matters by way of consensus gave effect to that item. He noted that only one working paper had been received so far on item 21; Settlement of disputes, and virtually no consideration had been given to item 20. Responsibility and liability for damage resulting from use of the marine environment.

59. The Conference should move forward to the final stages of its work with faith, hope and determination, seeking justice. However there could be no justice if entrenched rights acquired by the major maritime nations merely through custom and usage, without the genuine consent of the overwhelming majority of the international community, were perpetuated. The Conference should refrain from unilateral action and resist the

impulse towards precipitate decisions by recourse to voting. But it would also be unreasonable to expect Governments to exercise infinite patience, and it might prove too great a political strain for some Governments to resist the demands of powerful groups which wished to profit by the conduct of exploration and exploitation activities wherever they chose, relying on what they considered present international law. There had to be a solution somewhere that would produce a treaty whose terms would be fair and just, especially to the weaker nations, and which would be respected, honoured and scrupulously observed by all nations.

60. In conclusion, he expressed the appreciation of all participants in the Conference to the Government of Venezuela and to all others concerned with the organization and conduct of the Conference.

Minute of silence for prayer or meditation

On the proposal of the President, the representatives observed a minute of silence.

Closing of the session

61. The PRESIDENT declared the second session of the Third United Nations Conference on the Law of the Sea closed.

The meeting rose at 1.20 p.m.