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CONTENTS



*Chairman:* Mr. Ismail FAHMY (United Arab Republic).

## *Organization of work*

1. The CHAIRMAN: Before we begin our work this morning I would point out to the members of the Committee that, as they may have noticed, the revised text */A/C.1/L.406/Rev.1/* of the draft resolution sponsored by twenty Latin American countries on item 91, concerning the denuclearization of Latin America, has been circulated. I should like to announce that I intend to take up that draft resolution on Thursday afternoon for discussion and action by the Committee.

*It was so decided.*

## AGENDA ITEM 92

**Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind *(continued)* (A/6695; A/C.1/952)**

GENERAL DEBATE *(continued)*

2. The CHAIRMAN: The first speaker on my list this morning is the representative of the United Nations Educational, Scientific and Cultural Organization, who has requested that he be allowed to make a statement.

3. Mr. VARCHAVER (United Nations Educational, Scientific and Cultural Organization): Mr. Chairman, on behalf of UNESCO, may I first of all express gratitude for being allowed to address the Committee on this important matter.

4. In introducing his Government's most interesting proposal the representative of Malta */1515th and 1516th meetings/* mentioned UNESCO as one of the United Nations agencies concerned with the seas, and spoke at some length of the Intergovernmental Oceanographic Commission (IOC), created by UNESCO in 1960, as the most active body with regard to the question under consideration. As mention of the IOC was also made by a good many of the representatives who have already spoken, as well as in the note presented by the Secretary-General */A/C.1/952/*, it only remains for me to say a few words about the activities of UNESCO and the IOC to supply representatives with information which they may find useful in coming to appropriate decisions.

5. The key problem in Malta's proposal is the exploitation of the enormous reaches of the ocean and, particularly, the mineral resources of the ocean floor. Most of the legal, political, social, economic and other aspects evoked in this connexion are associated with the problem of resources. One cannot, however, envisage any solution without realizing that to do so mankind should have at its disposal all the knowledge of the ocean accumulated over the years, and much new knowledge which may be gathered only through persistent scientific research.

6. The representative of Malta rightly expressed concern over the apparent lack of general international awareness concerning the manifold aspects of the exploitation of ocean resources. However, this international awareness has certainly not been lacking on the part of those governments, organizations and individuals that have been associated with the development of the UNESCO programme in oceanography, with the creation of the Intergovernmental Oceanographic Commission and with the rapid progress of work of this latter organization.

7. It is in fact to a large measure through the efforts of these two bodies that everyone is now conscious of the enormous potential of the ocean. However, awareness is a long way from positive action. A lot must be done in promoting scientific investigations, in improving and developing the necessary logistics of such investigations, in establishing a policy framework for effective international co-operation, and in providing technical assistance to those countries whose scientific and technical development lags behind. One could not, after all, have started building electrical power stations before inventing electricity. Neither should one start to exploit the ocean floor before the solid scientific foundation for this exploitation is established. It is precisely with those considerations in mind that UNESCO started its programme of promotion of oceanographic research, some fifteen years ago. It became evident after the International Geophysical Year that without the co-operation of governments the costly oceanographic studies could not be internationally co-ordinated. Thus, the Intergovernmental Oceanographic Commission

was created in 1960 to complement the activities of UNESCO in such a way as to involve the direct voluntary participation of interested governments, in concerted action aimed at learning more about the nature and resources of the ocean.

8. I have mentioned four important types of activities carried out by the IOC and UNESCO, namely, direct promotion of scientific investigations, improvement and development of logistics, development of a policy framework for co-operation and, finally, technical assistance and training. While it might be in order, in this context, to illustrate these four types of IOC activities which, incidentally, are described in the UNESCO brochure entitled *Intergovernmental Oceanographic Commission (Five Years of Work)* and in a 1966 issue of the United Nations *Monthly Chronicle*,[2] I shall limit myself to one or two typical examples.

9. It is, in fact, largely due to the co-ordinating efforts of the IOC, undertaken during the International Indian Ocean Expedition, that we now know in some detail the remarkable features of the bottom topography of the Indian Ocean; that it was during the same expedition that sources of extremely hot water with associated mineral deposits were discovered in the Red Sea; and that a lot of other exciting geological and geophysical discoveries were made by the research ships of various countries working on the co-operative projects of the IOC. These gratifying results were made widely known and were abundantly discussed at numerous scientific symposia and seminars undertaken during the past years, as a part of UNESCO's programme.

10. Finally, I should like to stress that the IOC, because of its intergovernmental nature and thanks to the active participation of other agencies, in particular agencies of the United Nations system such as the Food and Agriculture Organization (FAO), the World Meteorological Organization (WMO), the International Atomic Energy Agency (IAEA) and the Intergovernmental Maritime Consultative Organization (IMCO), has been dealing with broad issues. References have already been made to the recently established group on legal questions. I may also mention that, during the past year, the IOC undertook to establish certain definite policies as regards, for example, international oceanographic data exchange, mutual assistance, and establishment of the Integrated Global Ocean Station System–which determine, for a number of years ahead, the development of international co-operation. It would seem, therefore, that a considerable number of aspects of international action concerning the ocean floor may be entrusted to the IOC, which is well equipped to deal with them, without creating at this stage any new committees or other organizational structures.

11. As the Commission ended its fifth session some two weeks ago, there appeared to be lucid awareness of its own maturity and capability of handling a diversity of questions pertaining to the ocean. UNESCO, for its part, is ready to provide further and increased support to the activities of the Commission and is prepared to put its professional experience at the disposal of Member Governments.

12. Mr. LOPEZ VILLAMIL (Honduras) *(translated from Spanish)*: Mr. CHAIRMAN, in you I salute one of the most valuable United Nations representatives, one who combines ability and experience with the fine spirit of co-operation essential to the work of this Organization, and equanimity in dealing with problems. Everyone is confident therefore that the Committee will be efficiently led. I also extend a salutation to the Vice-Chairman and the Rapporteur.

13. The item now before us: "Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind", aroused the interest of the Latin American representatives in the General Committee from the moment it was submitted to that body, and a preliminary agreement was reached with the representative of Malta, the result being the text I have just read out.

14. This item is of very special interest to my country, partly because our laws are specific in regard to the protection of our natural marine resources, partly because two oceans bathe our shores, and partly because it has not been possible up to now to restrain the acts of piracy by foreign fishing vessels which continually invade our seas and purloin what belongs to the people of Honduras. An extraordinary event took place three years ago, when the Honduran authorities in a single day captured twenty-three fishing vessels operating in territorial waters and supplying a powerful parent ship.

15. A year ago, in connexion with a legal survey, I asked the Foreign Ministers of Latin America for concrete information on the status of the legislation in each of their countries since the Geneva Conference,[3] and I would like here to thank all the Ministries for their replies to my questions.

16. The legal developments that have taken place over the past decades strike me as of great importance, for they reflect the evolution of international law which formally and precisely expresses the will of States throughout the world.

17. A brief glance at the data on the limits established for the territorial sea will give some idea of the vast variety to be found here. The States specifying four miles are: Iceland (1950); Sweden (1938) and Denmark (1812). Five miles: Uruguay. Six miles: Albania (1939); Ceylon (1928); Spain (1913); Morocco (1924); Israel and Poland (1938); and Portugal (1941). Ten kilometres: Belgium (1852); and Japan (1948). Nine miles: Mexico (1941). Ten miles: Norway, (1921) and Yugoslavia (1951). A large number of countries have adopted the twelve-mile limit: Saudi Arabia (1949); Argentina (1943); Brazil (1930); Bulgaria (1951); Canada (1927); China (1943); Cuba (1901); Egypt (1951); United States (1935); Guatemala (1940); Honduras (1965); Iran (1934); Italy (1940); Romania (1951); Russia (1909) and Venezuela (1956). Twenty kilometres: France (1948); Lebanon (1943); Syria (1935) and Colombia (1931).

1 United Nations Educational, Scientific and Cultural Organization, 1966, *Intergovernmental Oceanographic Commission* technical series No. 2.

2 United Nations, *Monthly Chronicle*, vol. III, No. 3. 1966.

3 United Nations Conference on the Law of the Sea, held in Geneva from 24 February to 27 April 1958.

18. Because of the protective measures established gradually by States over a zone reaching beyond their traditional territorial waters, both in theory and in international practice the rights of States to act to protect their own military security, their tax system, their customs régime and their fishing, are recognized in their own legislation. These are generally termed rights of jurisdiction and policing. In this way the competence of States has extended to the space between the high seas and the territorial seas, the fringe known as the contiguous zone.

19. An example of a bilateral agreement relating to the contiguous zone is the agreement of 10 February 1774 between Great Britain and France. England established provisions concerning windward navigation early in the eighteenth century, and they were still in force during the reign of Queen Victoria.

20. On 24 July 1876, England also decreed the pursuit of ships engaged in smuggling in the zone contiguous to its territorial seas. Similar legislation was enacted later by the United States to protect its customs and tax laws and to prevent illicit liquor traffic, and a twelve-mile wide zone of inspection was fixed in 1922 by the Tariff Act, covering the country's declared territorial sea and recognizing its right to board vessels and to pursue ships engaged in smuggling was claimed. A law of 5 August 1935 grants discretionary powers to the President of the United States, pursuant to reports from the Navy, to establish a variable width for the contiguous zone adjustable in the light of the circumstances of time and place.

21. Within the Inter-American System, by a resolution of the First Meeting of the Minister of Foreign Affairs of the American Republics, held in Panama in 1939, a distance of 300 sea miles was laid down as the width of the maritime security zone. The fact that this provision is essentially aimed at military defence in no way detracts from status as embodying the right of self-protection, and it can even be regarded as embodying the collective jurisdiction of the American States in matters affecting the Hemisphere vis-à-vis foreign claims of any kind.

22. Most writers on the subject have come out in favour of the existence of sovereignty in the adjacent zone considered as a State's territorial sea. The same can be said of the legal provisions adopted by most of the countries of the American continent establishing sovereign rights over the continental shelf and the epicontinental sea up to a distance of 200 miles. There is not the slightest doubt, for that matter, that the statements of President Truman in regard to "jurisdiction" are neither more nor less than a declaration of United States sovereignty over the zone in question.

23. The legislation of many countries has introduced far-reaching measures on matters of jurisdiction which it would be very difficult to challenge today; for example, the customs interests of riparian States in respect of specific acts by merchants ships in the waters within the contiguous zone charging harassment by the riparian State. Still less, in spite of the apparent resistance to the recognition of these maritime norms, could a third State be permitted to undertake construction within the contiguous zone in order to exploit, say, petroleum for its own use.

24. There has been a tendency to give great weight to the statements by Professor Gilbert Gidel of the University of Paris, maintaining that coastal States have only "fragmentary" or "strictly specialized" competence in this contiguous zone and that the riparian State "does not have absolute competence".

25. Moreover, the academic argument has assumed huge proportions, an attempt being made to distinguish between the terms "jurisdiction", "control", and "sovereignty" in connexion with the express declarations concerning contiguous zones, sea-bed, epicontinental sea, etc.

26. It seems to us that this whole discussion is irrelevant, since the way in which the law is understood is the same everywhere. The concept of sovereignty has the same validity in the international juridical community at all latitudes, whatever the interpretation and whatever declarations are made on the subject. The error lies perhaps in confusing the concepts of sovereignty and power, a confusion of some scientific interest dating back to the time when Jean-Jacques Rousseau expounded his well-known theory. A distinction has also to be drawn between sovereignty and dominion. Obviously this is not the place to go into the matter of the general theory of the State. But it should be noted that when we talk about "jurisdiction", "control" or "supervision", we are necessarily talking about the exercise of sovereignty by a State, regardless of whether this "jurisdiction", "control" or "surveillance" is absolute, relative or, as Gidel says, "strictly specialized". It would be illogical to talk about "full" sovereignty or "less full" sovereignty or "exclusive sovereignty", as some declarations put it; this is mere tautology.

27. During the course of the first Codification Conference on international law held at The Hague in 1930, the question of the contiguous zone was raised, and although there was no agreement the majority of the States participating in the Conference took a stand in favour of contiguous zones.

28. In consequence of the Volstead Act, from 1919 onwards the United States was confronted with a spate of smuggling because of the prohibition of alcoholic liquor. The smugglers found it easy to take refuge on the edge of the territorial waters. This led to the enactment of the Tariff Law of 1922, which authorized inspection within a zone of four leagues on the high seas.

29. From 1924 onwards, to protect its customs interests the United States signed a series of treaties with several countries, including England, Spain, Sweden, Denmark, Norway, Italy, France, Belgium, Germany, Panama, the Netherlands and Cuba.

30. England and the other signatory countries recognized the right of surveillance of the contiguous zone by American coastguards for the protection of the customs rights of the United States over an area extending twelve miles from the coast. It was also specified, for easier comprehension of the text of the treaties, that the coastguards would exercise surveillance over a contiguous zone comprising the distance a ship could sail in an hour. As is obvious, in such circumstances this distance is very elastic, depending essentially on the capacity of the vessel's engines.

31. The need to establish a contiguous zone, not only for the protection of the economic interests of States, but for

administrative (health) or purely military security reasons, progressed only too rapidly in international law, bringing about both established international practice and agreement. The Truman proclamation of 1945[4] was to give rise to a new process in the evolution of the law of the seas.

32. In masterly fashion, Gilbert Gidel in chapter III of his book *La Plataforma Continental ante el Derecho*,[5] raises the question whether it is justifiable to introduce the notion of the continental shelf into the legal field in order to deduce from it a right on the part of the riparian State to control the sea-bed and subsoil of the epicontinental sea beyond the limits of territorial waters.

33. Replying to his own question, Gidel says that the legislative instruments of both Latin America and the Middle East which have appeared since the declaration by President Truman in 1945, although they go beyond the United States claims, add nothing to the substance of the argument; that the different legal systems are based on consent, on established practice laid down in international law; that it is the declaration of 28 September 1945 that provides the juridical framework for the theory of the continental shelf; and that it is therefore essential to examine in some detail the wording and the arguments on which that document is based.

34. It is clear that President Truman's proclamation had immediate repercussions in nearly all the countries of the American continent. Once again, the American States south of the Rio Bravo regarded this move in the foreign policy of the United States as sufficient reason for adopting similar legal provisions, for the protection of both their immediate interests and those of defending the natural resources of the individual States. The adoption of similar or more or less similar measures in the different legal systems to enhance national resources is at the same time a means of protecting continental interests by establishing rules of law which may be innovations but are necessary ones.

35. The application of the measures taken to promote the interests of riparian States, whether viewed unilaterally or collectively, cannot be regarded as in any sense contrary to the interests of mankind, though attempts have been made with scant logic to cite this as an argument in favour of the unrestricted freedom of the seas.

36. "The American republics", says the Colombian jurist José Maria Yepes, "found themselves compelled to proceed unilaterally as an inevitable consequence of the initiative taken, likewise unilaterally, by President Truman on 28 September 1945. Yet no one has so far challenged the legality of the unilateral action of President Truman, who is the real author of the doctrine. In such circumstances, the Latin American republics could not help but act as they did. The result, however, has been more or less the same; for the sum of these unilateral declarations, which substantially coincide, constitutes a collective attitude of profound legal and political significance.

37. "To argue that in international law the unilateral attitude of States cannot properly have international effects is to show complete ignorance of the law. Custom–which is one of the principal sources of international law–is formed by the repetition of certain individual acts by a particular State. These unilateral acts by the various States create customary international law, as is now in fact laid down in Article 38(1,b) of the Statute of the International Court of Justice. This is precisely what occurred in the unilateral statements formulated by the American States, including the United States, on the principle of the continental shelf. What we are therefore dealing with is the creation of a new rule of customary international law, one which considerably enriches international law in the Americas and has had repercussions in other parts of the world."

38. The Peruvian jurist Alberto Alloa emphasizes the geo-biological environment. "The fishing resources are the fruit of the geo-biological environment surrounding and creating men, just as it does with the human beings living along the adjacent coasts. There is a geo-biological unity between man and the resources of nature in all zones where geology has created special, distinctive conditions which cannot be found elsewhere because they are an extension of the continental shelf. Hence to deny that the human beings living in the coastal areas of our countries and enduring the rugged conditions of the very environment, the very same mountain ranges and the same climate that created the riches of the sea, have a preferential right to the resources within their reach, would be tantamount to condemning them to see their own means of subsistence snatched from them by other human beings who have other and better means of subsistence. It would also be tantamount to denying the legitimate right of States to protect their immediate rights against those interested in preserving the *de facto* monopoly of the resources of the sea by employing their economic and technical advantages in an element normally used for other purposes such as navigation and unrestricted trading; such advantages in no way justify the appropriation of the wealth and the natural resources of the coastal States."

39. The Ecuadorian jurist Gonzalo Escudero, comparing the relationship between the notion of the territorial sea and that of the high seas, and bearing in mind the political and economic vested interests of the great Powers, says that these Powers have whittled away the legal integrity they profess to defend. He points out that the great Powers, with their huge navies and merchant and fishing fleets, have been insisting on maintaining the rule of recognizing a very narrow off-shore zone, the fact that this applies to themselves as well being immaterial, since the power they have in their land, sea and air armaments gives them all the security they need without the necessity for extending their territorial waters. "What they are trying to achieve," he says "by their stubborn opposition to any extension of the three-mile limit by other States is to prevent any curtailment of the so-called international zone of the high seas, where they regard themselves as all-powerful, their fleets dominating the navigation of warships and merchant vessels, and the exploitation of the natural resources of the sea by vast fishing and other fleets and other technical means. Meanwhile the small and medium-sized countries, lacking these powerful means of ruling the waves, are seeking to rectify this inequitable system by establishing such zones of national security and exploitation of the resources of the sea as are essential for the satisfaction of the needs of their peoples."

4 See *Laws and Regulations on the Régime of the High Seas*, United Nations Publication, Sales No.: 1951, V. 2, pp. 38 and 112.

5 Sever-Cuesta, Valladolid, 1951. (No English edition.)

40. However, as we have seen, it does not make sense to keep the medium-sized and small States to narrow territorial waters and not to recognize the proper rights of States, while making express declarations concerning zones of protection and interest for the conservation of their own natural resources.

41. The dissenting opinion given by the distinguished Chilean jurist Alejandro Alvarez, one of the Judges of the International Court of Justice, in the Anglo-Norwegian fisheries case[6], was based on the following considerations:

> *"(a)* Having regard to the great variety of the geographical and economic conditions of States, it is not possible to lay down uniform rules, applicable to all, governing the extent of the territorial sea and the way in which it is to be reckoned.
>
> *"(b)* Each State may therefore determine the extent of its territorial sea and the way in which it is to be reckoned, provided it does so in a reasonable manner, that it is capable of exercising supervision over the zone in question and of carrying out the duties imposed by international law, that it does not infringe rights acquired by other States, that it does no harm to general interests and does not constitute an *abus de droit.*
>
> *"(c)* States may alter the extent of the territorial sea which they have fixed, provided that they furnish adequate grounds to justify the change."

42. A word now about the legal situation in our continent and in other countries of the world.

43. In Argentina the Government by Decree No. 1386 of 24 January 1944, declared the continental shelf and the sea area above it to be transitional zones for mineral deposits. Subsequently, by Decree No. 14705 of 11 October 1946 it declared the epicontinental sea and the Argentine continental shelf as coming under national sovereignty. The Decree also states that for the purposes of free navigation, the character of the waters situated in the Argentine epicontinental sea and above the Argentine continental shelf remains unaffected by the present Declaration".

44. The Political Constitution of Panama of 1 March 1946 states (article 209) that:

> "The following belong to the State and are of public use and, in consequence, cannot be the object of private appropriation . . . the aerial space and the submarine continental shelf which appertain to the national territory . . .".

A subsequent Decree, No. 449 of 17 December 1946 regulates (article 3) the exploitation, including fishing, of the waters covering the continental shelf.

45. Costa Rica, by Decree No. 116 of 27 July 1948, proclaimed in a declaration similar to those of Chile and Peru, that Costa Rica exercises sovereignty over:

> ". . . the whole submarine platform or continental and insular shelf adjacent to the continental and insular coasts of the national territory, at whatever depth it is found, and the inalienable right of the nation to all the natural wealth which exists in the said shelf or platform . . .".

The Decree specifies that State protection and control over the sea area applies within the perimeter formed by the coast and a mathematical parallel line drawn in the sea 200 nautical miles from the continental coast of Costa Rica.

46. On 2 November 1949 a new Legislative Decree, No. 803, ratified Decree No. 116 of 1948 with a few minor changes. On the other hand, it is noteworthy that the Political Consitution promulgated on 7 November 1949 does not, as in the case of other States, fix the extent of the territorial sea. Article 6 reads:

> "The State exercises complete and exclusive sovereignty in the air space over its territory and in its territorial waters and continental shelf, in accordance with the principles of international law and treaties in force."

47. In Nicaragua, the Political Constitution of 1948 (article 2) incorporates the continental shelf into its national territory.

48. In May 1949 the Congress of Nicaragua approved a declaration to the effect that the continental shelf referred to in article 2 of the Constitution as forming an integral part of Nicaragua's territory is that part of the territory covered by the waters of the sea to a depth of 200 metres at low tide.

49. Article 50 of the new Constitution of Nicaragua promulgated on 1 November 1950, reproduces article 2 of the old Constitution almost verbatim. It provides that:

> "The national territory extends between the Atlantic and the Pacific Oceans and the Republics of Honduras and Costa Rica. It also comprises: the adjacent islands, the subsoil, the territorial waters, the continental shelf, the submerged foundations *(zócalos submarinos),* the air space and the stratosphere."

50. In Honduras, by Decree No. 96 of 28 January 1950, the Government declared that Honduran sovereignty extends to the submarine platform of the national territory, continental and insular, and to the waters covering it, at whatever depth it is found or whatever their width, and the nation exercises complete, inalienable and imprescriptible dominion over all the wealth that exists or may exist there, in its subsoil or in the sea area within vertical planes drawn at its edges.

51. The Constitution of Honduras states as follows (Decree No. 20 of the National Constituent Assembly, 1965, article 5):

> "The subsoil, the air space, the territorial sea to a distance of twelve nautical miles, the bed and subsoil of the submarine platform, continental and insular shelf, and other underwater areas adjacent to its territory outside the zone of territorial waters and to a depth of two hundred meters or to the point where the depth of the superjacent waters, beyond this limit, permits the exploitation of the natural resources of the bed and subsoil, also belong to the State of Honduras and are subject to its jurisdiction and control."

52. In the cases referred to in the three preceding paragraphs, the domain of the nation is inalienable and imprescriptible, and concessions may be granted only by

6 *Fisheries Case, Judgement of 18 December 1951: I.C.J. Reports, 1951.*

the Republic to individuals or civil or commercial companies organized or incorporated under Honduran laws, subject to the condition that regular undertakings be established for exploitation of the elements mentioned and that requirements prescribed by law are met. In the case of petroleum and other hydrocarbons, a special law shall determine the manner in which exploitation of these and similar products is to be undertaken.

53. As a consequence of the foregoing declarations, the State reserves the right to establish the boundaries of zones for the control and protection of natural resources in the continental and insular seas that are under the control of the Government of Honduras and to change such boundaries according to circumstances that may arise by reason of new discoveries, studies and national interests that may occur in the future. The present declaration of sovereignty does not ignore similar legitimate rights of other States on a basis of reciprocity, nor does it affect the rights of free navigation by all nations, in accordance with international law.

54. The Political Constitution of El Salvador, promulgated on 7 September 1950, states (article 7):

"The territory of the Republic within its present boundaries is irreducible; it includes the adjacent sea within a distance of 200 nautical miles measured from the line of lowest tide, and it embraces the air space above, the subsoil, and the corresponding continental shelf.

"The provisions of the preceding section do not affect freedom of navigation in accordance with principles accepted by international law.

"The Gulf of Fonesca is an historic bay subject to a special régime."

55. The Government of Brazil expressly declared on 8 November 1950 (Decree No. 22840, article 1) that "the submarine platform belonging to the continental and insular territory of Brazil forms an integral part of that territory under the exclusive jurisdiction and control of the Federal Union". Article 3 of the same Decree maintains in full force "the norms governing navigation in the waters superjacent to the above-mentioned platform, without prejudice to such norms as may be established subsequently, especially in regard to fishing in the zone". A few days after the publication of this Decree, the Political Division of the Brazilian Foreign Ministry published an explanatory note on the Decree, crystallizing the geographical notion of the platform as "reckoned as at a depth of 180 to 200 metres, whence it drops suddenly to greater ocean depths".

56. The Guatemalan Constitution of 1 March 1956 declares that:

"The public domain shall include all Guatemalan territory, soil, subsoil, territorial sea, continental shelf and air space and shall extend to the natural resources and wealth existing therein, without prejudice to free maritime and air navigation in accordance with the law and the provisions of international treaties and conventions."

57. The Venezuelan National Constitution of 23 January 1961 lays down the following (Chapter II, article 7):

"The national territory is that which belonged to the Captaincy-General of Venezuela before the political transformation initiated in 1810 with the modifications resulting from treaties validly concluded by the Republic.

"The sovereignty, authority and vigilance over the territorial sea, the contiguous maritime zone, the continental shelf, and the air space, as well as the ownership and exploitation of property and resources contained within them, shall be exercised in accordance with the law."

58. As the Secretary-General is aware, the Republic of Venezuela ratified the four Conventions on the Law of the Sea of 1958 on the dates recorded in the registers kept by the Secretariat.

59. Thus the whole legislative series might be summarized as follows:

Argentina: Decree No. 1386 of 24 January 1944 and Decree No. 14708 of 11 October 1946.

Brazil: Decree No. 28840 of 8 November 1950.

Costa Rica: Decree No. 116 of 27 July 1948 and Legislative Decree No. 803 of 2 November 1949.

Chile: Declaration of 25 June 1947.

Cuba: Legislative Decree No. 1948 of 25 January 1955.

Ecuador: Legislative Decree of 21 February 1951; Fishing and Hunting of Sea Animals Act of 22 February 1951; Law of 20 August 1952; Legislative Decree of 13 December 1954, and Executive Decree No. 275 of 7 February 1955.

El Salvador: Political Constitution of 7 September 1950 (article 7).

United States of America; Proclamation No. 2667 of 28 September 1945; Proclamation No. 2668 of 28 September 1945; Executive Order No. 9633 of 28 September 1945; and Executive Order No. 9634 of 28 September 1945.

Guatemala: Regulation of 21 April 1939 for the Administration and Policing of the Ports of the Republic; Legislative Decree No. 2393 of 17 June 1940; and Petroleum Act No. 649 of 30 August 1949.

Honduras: Decree No. 96 of 28 January 1950; Decree No. 102 of 7 March 1950; Legislative Decree No. 103 of 7 March 1950; Legislative Decree No. 104 of 7 March 1950; and Political Constitution of 1965.

Nicaragua: Declaration by the Congress of May 1949; Political Constitution of 1 November 1950; and Decree No. 449 of 17 December 1946 (article 5).

Panama: Political Constitution of 1 March 1946 (article 209).

Peru: Supreme Decree No. 781 of 1 August 1947; Petroleum Act No. 11780 of 12 March 1952; Supreme Resolution of 11 April 1953; and Supreme Resolution of 10 May 1955.

Dominican Republic: Law No. 3342 of 13 July 1952.

Venezuela: Law of 12 July 1942; Shipping Act of 9 August 1944; and Political Constitution of 11 April 1953 (article 2).

60. Especially noteworthy is that well-known instrument, the Declaration of Santiago, adopted on 18 August 1952 by

the Governments of Chile, Ecuador and Peru.[7] My country expresses its solidarity with the contents of this Declaration as being fully justified by the principles upon which it is based. The Declaration states as follows:

"1. Governments are bound to ensure for their people access to necessary food supplies and to furnish them with the means of developing their economy.

"2. It is therefore the duty of each Government to ensure the conservation and protection of its natural resources and to regulate the use thereof to the greatest possible advantage of its country.

"3. Hence it is likewise the duty of each Government to prevent the said resources from being used outside the area of its jurisdiction so as to endanger their existence, integrity and conservation to the prejudice of peoples so situated geographically that their seas are irreplaceable sources of essential food and economic materials.

"For the foregoing reasons the Governments of Chile, Ecuador and Peru, being resolved to preserve for and make available to their respective peoples the natural resources of the areas of sea adjacent to their coasts, hereby declare as follows:

"(I) Owing to the geological and biological factors affecting the existence, conservation and development of the marine fauna and flora of the waters adjacent to the coasts of the declarant countries, the former extent of the territorial sea and contiguous zone is insufficient to permit of the conservation, development and use of those resources, to which the coastal countries are entitled.

"(II) The Governments of Chile, Ecuador and Peru therefore proclaim as a principle of their international maritime policy that each of them possesses sole sovereignty and jurisdiction over the area of the sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast.

"(III) Their sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and sub-soil thereof.

"(IV) The zone of 200 nautical miles shall extend in every direction from any island or group of islands forming part of the territory of a declarant country. The maritime zone of an island or group of islands belonging to one declarant country and situated less than 200 nautical miles from the general maritime zone of another declarant country shall be bounded by the parallel of latitude drawn from the point at which the land frontier between the two countries reaches the sea.

"(V) This declaration shall not be construed as disregarding the necessary restrictions on the exercise of sovereignty and jurisdiction imposed by international law to permit the innocent and inoffensive passage of vessels of all nations through the zone aforesaid.

"(VI) The Governments of Chile, Ecuador and Peru state that they intend to sign agreements or conventions to put into effect the principles set forth in this Declaration and to establish general regulations for the control and protection of hunting and fishing in their respective maritime zones and the control and co-ordination of the use and working of all other natural products or resources of common interest present in the said waters."

[7] *Registro Oficial* of Ecuador, Year IV, No. 1029, 24 January 1956, pp. 8492 and 8493.

61. The Russian Imperial Government was one of the first to proclaim, through its Foreign Office on 29 September 1916, its sovereignty over the submarine platform, which it considered to be incorporated in its territory, declaring that the continental shelf included the islands of the Taimyr Archipelago, Severnaya Zemlya, the Little Taimyr, the Henrietta, Jeannette, Bennett, Herald, Kedinenie, Wrangel and New Siberian Islands, and the smaller islands surrounding these. The grounds for the declaration of sovereignty were that although these islands are uninhabited, they are part of the continental shelf. On 4 November 1924 the Soviet Union Government ratified this earlier proclamation, at the same time recalling the western boundaries fixed by the Russo-American Convention of 30 March 1867.

62. The Law of 24 July 1934 enacted by the Government of Iran; Arab State legislation such as the Saudi Arabian Law of 28 May 1949; and the general legislation enacted by the nine countries forming the Arab Sultanates of the Persian Gulf between 5 and 20 June 1949 for the defence, conservation and preservation of the submarine resources of the Persian Gulf, declare the soil and subsoil of the high seas covering the Gulf and adjacent to their territorial waters to be subject to their jurisdiction and authority without prejudice to specific agreements with other neighbouring countries.

63. The *note verbale* of 7 March 1955, from the Philippines to the Secretary-General of the United Nations states that the policy of the Philippine Government as regards the extent of its territorial waters may be summarized as follows:

"All waters around, between and connecting different islands belonging to the Philippine Archipelago, irrespective of their width or dimension, are necessary appurtenances of its land territory, forming an integral part of the national or inland waters, subject to the exclusive sovereignty of the Philippines. All other water areas embraced within the lines described in the Treaty of Paris of December 10, 1898 the Treaty concluded at Washington, D.C., between the United States and Spain on November 7, 1900, the Agreement between the United States and the United Kingdom of January 2, 1930, and the Convention of July 6, 1932 between the United States and Great Britain, as reproduced in Section 6 of Commonwealth Act No. 4003 and Article 2 of the Philippine Constitution, are considered as maritime territorial waters of the Philippines for purposes of protection of its fishing rights, conservation of its fishery resources, enforcement of its revenue and anti-smuggling laws, defense and security, and protection of such other interests as the Philippines may deem vital to its national welfare and security, without prejudice to the exercise by friendly foreign vessels of the right of innocent passage over those waters. All natural deposits or occurrences of petroleum or natural gas in public and/or private lands within the territorial waters or on the continental shelf, or its analogue in an archipelago, seaward from the shores of the Philippines which are not within the territories of other countries belong inalienably and imprescriptibly to the Philippines, subject to the innocent right of innocent passage of friendly foreign States over those waters."

64. In Iceland, Law No. 44 of 5 April 1948 constitutes a specific declaration relating to the defence of the economic

interests of the country's fisheries. Iceland argues that the riparian jurisdiction is based on the recognition of specific interests of States in their coastal zones. One of these interests, it maintains, is exclusive jurisdiction over fisheries. This is the gist of the *note verbale* of the Icelandic Foreign Ministry dated 26 March 1955.

65. A sharp distinction must be made between the conservation and the exploitation of the living resources of the sea. In the event of a conflict of interests in regard to exploitation, the riparian State should have priority up to a reasonable distance from its coast, whether this zone is described as territorial sea, contiguous zone, waters superjacent to the continental shelf, or anything else. The width of this zone may well differ from one country to another. Every case must be considered on its merits, and the riparian State should be at liberty, up to a reasonable distance from its coast, to take the necessary measures for the protection of its coastal fisheries in the light of the local circumstances: economic, geographical, biological, etc. This is the only way of dealing realistically with the question.

66. In the Republic of Korea, at Seoul in January 1952 the President, citing firmly established precedents and the urgent need to safeguard once and for all the interests of national defence and well-being, made the following proclamation:

"The Government of the Republic of Korea holds and exercises the national sovereignty over the shelf adjacent to the peninsular and insular coasts of the national territory, no matter how deep it may be, protecting, preserving and utilizing, therefore, to the best advantage of national interests, all the natural resources, mineral and marine, that exist over the said shelf, on it and beneath it, now, or which may be discovered in the future."

67. In Ghana, Act of Parliament No. 175 states *inter alia* as follows:

"Where the President is satisfied that it is in the public interest so to do, he may, by legislative instrument, declare any area of the sea touching or adjoining the coast, and within a distance of one hundred nautical miles from the outer limits of the territorial waters of the Republic to be a fishing conservation zone; and may in the same or any other instrument specify the measures which shall be taken for the conservation of the resources of any such area.

"The Minerals Act 1962 (Act 126) is hereby amended in section 1 by the insertion immediately after the words 'covered by territorial waters' of the words 'and of the continental shelf'.

"For the purposes of this and any other enactment, 'continental shelf' includes the sea-bed and subsoil of marine areas to a depth of one hundred fathoms contiguous to the coast and seaward of the area of land beneath the territorial waters of the Republic and all the resources of any such area including minerals and other inorganic as well as organic matter; 'territorial waters' shall have the meaning assigned to it by section 1 of this Act."

68. The Third Meeting of the Inter-American Council of Jurists, the legal organ of the Organization of American States, meeting at Mexico City in 1956, adopted a number of resolutions including the following:

"*Whereas:*

"The topic 'System of Territorial Waters and Related Questions: Preparatory Study for the Specialized Inter-American Conference Provided for in Resolution LXXXIV of the Caracas Conference' was included by the Council of the Organization of American States on the agenda of this Third Meeting of the Inter-American Council of Jurists; and

"Its conclusions on the subject are to be transmitted to the Specialized Conference soon to be held,

"The Inter-American Council of Jurists

"*Recognizes* as the expression of the juridical conscience of the Continent, and as applicable between the American States, the following rules, among others, and

"*Declares* that the acceptance of these principles does not imply and shall not have the effect of renouncing or prejudicing the position maintained by the various countries of America on the question of how far territorial waters should extend.

"*Continental shelf*

"The rights of the coastal State with respect to the seabed and subsoil of its continental shelf extend also to the natural resources found there, such as petroleum, hydrocarbons, mineral substances, and all marine, animal and vegetable species that live in a constant physical and biological relationship with the shelf, not excluding the benthonic species.

"*Conservation of living resources of the high seas*

"Coastal States have the right to adopt, in accordance with scientific and technical principles, measures of conservation and supervision necessary for the protection of the living resources of the sea contiguous to their coasts, beyond territorial waters. Measures taken by a coastal State in such case shall not prejudice rights derived from international agreements to which it is a party, nor shall they discriminate against foreign fishermen.

"Coastal States have, in addition, the right of exclusive exploitation of species closely related to the coast, the life of the country, or the need of the coastal population, as in the case of species that develop in territorial waters and subsequently migrate to the high seas, or when the existence of certain species has an important relation to an industry or activity essential to the coastal country, or when the latter is carrying out important works that will result in the conservation or increase of the species."[8]

69. International law is decidedly in a period of transition, and consequently all the new problems arising should be studied with due reference to this dynamic aspect of legal science. Every day new problems arise, and juridical institutions in general cannot remain static or consider themselves immune from change if solutions are to be found. These new problems, regardless of wars or crises which affect mankind from time to time, represent a major trend in the historical development of man. Undoubtedly

8 Third Meeting of the Inter-American Council of Jurists, Mexico City, 17 January-4 February 1956, Final Act, resolution XIII, pp. 36-37.

this inexorable evolution has borne fruit in the form of rules now incorporated into international law; similarly, the necessity has arisen to introduce new systems which depart from traditional principles. Otherwise the crises that arise with each particular event or problem are prolonged indefinitely. To avoid the discussion and solution of legal problems–and indeed political and other socio-economic problems–is like closing all the overflow outlets of a tank into which water is being poured constantly.

70. A whole series of reasons have been adduced in justification of the measures taken by riparian States which have no continental shelf but have proclaimed their jurisdiction over a zone some 200 miles wide. J. M. Yepes writes:

> "The principle of the juridical equality of States, a sacrosanct principle of inter-American international law, requires that maritime States not enjoying the benefits of a submarine platform should be compensated by having jurisdiction over the sea to enable them effectively to defend the resources of the waters that bathe their coasts. Reasons of vital necessity for the peoples living in the neighbourhood of these sea areas have also been adduced by the countries of the American South Pacific."

71. In virtue of this neutral medium, this medium of general utility, namely the sea, where physical and legal relationships arise there are no grounds for claiming, on the pretext of the freedom of the seas, a kind of physical monopoly reinforced by technical know-how that would deprive the coastal nations of their natural resources and of a right founded on natural logic, on natural law, which acquires legitimacy and comes to be a pressing need.

72. Development of the mining of minerals has been making headway over the last few years in Europe (England), in the Americas (the United States and Venezuela) and in other parts of the world such as Sumatra, mainly in respect of petroleum and natural gas. Furthermore, modern technology is concerned with a series of activities on the high seas: *(a)* hydrography; *(b)* naval and salvage operations; *(c)* coastal engineering; *(d)* fisheries and processing plants; *(e)* chemical and petroleum industries; *(f)* mineral industries; *(g)* meteorology; *(h)* communications; *(i)* production of energy, etc.

73. Two international legal instruments, embracing all the Members of the United Nations have given concrete form to the series of precedents I have mentioned. They are the Convention on Fishing and Conservation of the Living Resources of the High Seas and the Convention of the Continental Shelf, adopted at Geneva in 1958. The articles of the former include the following:

*"Article 6*

"1. A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

"2. A coastal State is entitled to take part on an equal footing in any system of research and regulation for purposes of conservation of the living resources of the high seas in that area, even though its nationals do not carry on fishing there.

*"Article 7*

"1. Having regard to the provisions of paragraph 1 of article 6, any coastal State may, with a view to the maintenance of the productivity of the living resources of the sea, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other States concerned have not led to an agreement within six months."[9]

The articles of the second instrument, the Convention on the Continental Shelf, include the following:

*"Article 2*

"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.

"3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

"4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable state, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil.

*"Article 3*

"The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters."[10]

74. This valuable international instrument embodies a clear definition of the legal concept of full exercise of sovereignty by a State over its continental shelf for the purpose of exploration and exploitation of its natural resources; recognition is therefore given to the political, geographic, economic and other interests of the State in respect of the natural resources off its coast.

75. The matter of the resources of the ocean floor, as dealt with penetratingly by the representative of Malta from the point of view of the prospects for their exploitation, seems to us to disregard the question of the interests of States, and acceptance of the conclusions drawn in his statement at the 1515th and 1516th meetings would be seriously disquieting.

76. We are concerned above all that any measure aimed at the exploitation of the resources of the sea at the international level should not encroach on the legitimate right embodied in national jurisdictions. These in many instances embrace the continental and the insular platform.

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9 United Nations, *Treaty Series*, vol. 559 (1966), No. 8164.

10 *Ibid.*, vol. 499 (1964), No. 7302.

The sovereignty proclaimed entails complete dominion over all the resources that exist or may exist on the platform, the ocean floor and subsoil, and in the waters covering them. These jurisdictions also include areas 200 nautical miles wide in the case of countries that have no continental shelf but do have natural resources which belong to them because of geographical proximity within the immediate geo-biological region. The former is the usual situation along the Atlantic coast of Latin America; the latter occurs regularly in the South Pacific area.

77. We are of the opinion that any study of this matter, and the conclusions drawn from it, must not so much safeguard what might be called a modern national jurisdiction, since there is no relevant principle of international law that could be set up as a valid rule applicable to all States but, as the representative of Chile said at the 1526th meeting, must safeguard national jurisdictions generally as being the only concrete juridical element the international legal community has to work on.

78. My delegation cannot accept the right of other countries to regard as a mere claim something which the Constitution of my country explicitly and categorically proclaims as a sovereign right in respect of our maritime areas. Still less can we agree that what other countries might call "claims to sovereignty in respect of the sea-bed and the ocean floor" can be arbitrarily "frozen" for negotiation in some vague future.

79. The situation today indicates that all types of exploitation of the sea are an economic proposition, if not precisely in the ocean depths, at any rate in and around the coast and especially on the continental shelf. We do not deny that men look askance at technological and scientific conquest or exploration of the ocean floor on a major scale; but the immediately accessible wealth is not far from the coasts and tends to be within present national jurisdictions rather than otherwise. The Latin American countries welcome the initiative and are prepared to participate to the full in exploitation provided their legitimate rights are safeguarded.

80. In resolution 2172 (XXL), paragraph 1, the General Assembly takes over Economic and Social Council resolution 1112 (XL) which requests the Secretary-General to make a survey of the present state of knowledge of the resources of the sea beyond the continental shelf. It is quite clear from this that no encroachment is envisaged on national jurisdictions which have regularly proclaimed the continental shelf as belonging to them, and that the aim is rather to study and learn to use techniques for exploiting these resources. This is a valuable precedent that could be useful for the study of the subject.

81. I cannot refrain from mentioning also General Assembly resolution 2158 (XXI) on permanent sovereignty over natural resources. Paragraph 3 of this resolution states that the United Nations effort should help in achieving the maximum possible development of the natural resources of the developing countries and in strengthening their ability to undertake this development themselves, so that they might effectively exercise their choice in deciding the manner in which the exploitation and marketing of their natural resources should be carried out. The spirit of that resolution is the spirit which should also prevail as a further precedent for a sober approach to this question.

82. To sum up, my delegation wishes to make a constructive statement and to indicate its readiness to collaborate in the study of this topic provided assurance is given that the existing national jurisdictions are not interfered with but rather that large-scale international collaboration is sought in conjunction with these jurisdictions.

83. Mr. CORRÊA DO LAGO (Brazil): My Government attributes the greatest importance to the item now before us. The United Nations has seldom been seized with a question of such relevance, complexity and timeliness. Our thanks are due to the Maltese delegation for having brought this matter to our consideration and to Ambassador Pardo, personally, for his excellent and thorough presentation.

84. Brazil is a maritime nation. History and geography have made it so. For more than 5,000 miles the Brazilian coastline weaves its way from the north of the Equator to well south of Capricorn. From the vast sea facing us, a significant portion of the Brazilian people has traditionally gathered food and earned a livelihood. Therefore, my country could not remain indifferent to the impact that developments in the marine environment may have on its future. Within the limits of our scarce resources we have striven to improve our knowledge of that environment. We have been gathering valuable new experience from the exploration of off-shore deposits of oil and natural gas. Eleven Brazilian universities have special institutes dedicated to one or more aspects of the marine sciences, and the Brazilian Navy and the Oceanographic Institute of the University of Sao Paulo maintain altogether ten ships fitted for oceanographic research. One of them has been equipped with the assistance of UNESCO and has been an instrument of international co-operation employing scientists from many nations and taking aboard students from several Latin American countries.

85. Those are modest beginnings but they have served to give us an awareness of the wealth of the seas and the importance of international co-operation for strengthening the research activities of the developing countries in the field of marine sciences. Consequently, the Brazilian Government gives most serious consideration to the question of the exploration and utilization of the resources of the sea-bed and the ocean floor, and the subsoil thereof. It feels that the international community when dealing with the multiple and far-reaching implications of this matter should proceed with a sense of urgency while acknowledging that the complexities of the question require careful and cautious examination.

86. My delegation has followed our general debate with the utmost attention and we have found the exchange of views illuminating and extremely useful. It appears that a clear majority of members would like to see at the present session the establishment of a committee having the competence to examine all matters pertaining to the item now under consideration. Other delegations favour a procedural approach whereby either the Secretary-General or an *ad hoc* working group would collect for presentation to the twenty-third session of the General Assembly all available data on the multiple aspects of the problem and

would also attempt to co-ordinate the efforts currently being made by the specialized agencies and other bodies in the same field.

87. There seems to be, at any rate, general agreement on the necessity to gather all pertinent information so as to allow the United Nations to act in this matter with as complete a knowledge as possible of the vast problems involved.

88. My delegation is for the creation of a permanent committee. We believe that its establishment would provide a framework adequate to the magnitude of the issues involved and would also reflect the great interest the United Nations takes in these matters. On the other hand, we see no incompatibility between the nature of the work that the committee would accomplish during its initial stage of activity and the tasks which the countries that favour the procedural approach would assign either to the Secretary-General or to an *ad hoc* working group. On the contrary, in the short run in either case the same co-ordinating and fact-finding emphasis would apply.

89. The committee we contemplate would not limit itself, however, to this initial assignment and would be available, after consideration of its reports by the twenty-third session of the General Assembly, to enter a second and essentially substantive stage of activity.

90. I hope that the views I have just expressed may provide a bridge between those who favour the committee–amongst whom we are included–and those other delegations which believe, as we do, that the conduct of future business requires as a pre-condition that we undertake a comprehensive survey on the present state of knowledge on these very complex matters.

91. The General Assembly should give the committee a very broad mandate instead of a detailed list of topics. Such ample terms of reference would allow the committee to consider as need arises all aspects of the question of the exploration and use of the sea-bed and ocean floor as well as the implications of such exploration and use on the marine environment. The committee, therefore, should not be precluded from addressing itself to all aspects of the question, be they scientific, technological, economic, legal or military, as would be the case with a too narrow or a too rigid mandate. That does not mean that we should expect the committee to examine in depth all such aspects of the problem–and much less come to conclusions–by next year. What we mean is that the committee, from its inception, should have the full range of issues before it when dealing with any specific point.

92. The committee should also have in mind that the exploration and use of the sea-bed and ocean floor should benefit mankind as a whole, and in particular the less developed countries, instead of increasing the gap that separates them from the highly developed countries. At the same time a basic role of the United Nations in this matter should be to ensure that the exploitation of the sea-bed and the ocean floor is conducted in such a way as to strengthen international peace and security.

93. I feel confident that the work we are now initiating will provide the international community with the first comprehensive approach to one of the great questions of our age. We should all keep in mind at every stage of our work that the matter in our hands will fundamentally affect the future of mankind.

94. Mr. WALDHEIM (Austria): First of all, I should like to join representatives who have spoken before me in congratulating Ambassador Pardo on his brilliant introduction to the problems and aspects of the exploration and uses of the ocean floor. Dr. Pardo indeed succeeded in presenting us with a most stimulating outline of possible future developments. He urged us to consider measures which will decisively influence the well-being of coming generations and the harmonious evolution of mankind.

95. Austria, a land-locked country, is grateful to the Maltese delegation for having raised this problem. Actually, the land-locked countries are among those which would be primarily affected if technological progress, outpacing legal developments, led to a new unbalanced distribution of wealth, to the disadvantage of those countries. Increasing knowledge of deep-sea mining makes it possible to envisage a large-scale exploitation, in the not too distant future, of the enormous natural resources hidden in the ocean floor. At present we can observe the increasing interest of governments in the ocean floor and their growing generosity in providing funds for oceanographic research. This activity, we are told, is matched by sizable interest on the part of private firms. The technical problems which must be overcome are on the way towards solution. On the other hand, the legal and political problems of the status of deep-sea resources are far from being solved or tackled.

96. The existing absence of an adequate legal framework, therefore, will lead inevitably, in the long run, to a race between nations seeking to establish jurisdiction over the ocean floor. We can very well understand the underlying economic incentives, which are equalled and surpassed by considerations of national defence. The defence aspect is illustrated by the possibility of planting missile-launching equipment on the ocean floor and by the quantities of strategic minerals in the sea-bed. In this context, I would draw attention again to the relevant chapter of Ambassador Pardo's address in which he deals with manganese *[1515th meeting, paras. 26-32]*, a highly important metal for the manufacture of steel.

97. The existing legal régime covering the exploitation of the sea-bed and the ocean floor will not suffice to meet future developments. As a matter of fact, a narrow interpretation of the 1958 Geneva Convention on the Continental Shelf would lend itself to an appropriation of the ocean floor by coastal States with all the dangers arising from such competition. Following article 1 of the Geneva Convention, the exclusive rights of a coastal State extend:

> "... to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources ...".

98. By establishing some sort of international régime over the ocean floor, with due regard for the defence interests of coastal States, we would not only avoid the risk of a dangerous confrontation between competing nations but create an effective tool for greater and more efficient help to developing nations.

99. The immediate task facing us now is to think about an adequate organizational set-up within which we might find a way to achieve these long-range objectives. In his note *[A/C.1/952]*, the Secretary-General has drawn attention to the activities which the Secretariat and the Intergovernmental Oceanographic Commission of UNESCO are already carrying out in this field. In the course of the debate in this Committee a proposal has been made that the General Assembly take action to establish a "committee on the oceans". Such a committee would consider all relevant proposals placed before it and make recommendations on such proposals to the General Assembly. It would assist the Assembly in considering questions of law pertaining to this item.

100. In this connexion, the setting up of a committee following the pattern of the Committee on the Peaceful Uses of Outer Space has been suggested. The terms of reference of those committees should be more or less identical. The similarity of the problems dealt with by the Committee on Outer Space and the problems now under consideration has led several delegations to support that proposal, arguing that we are now turning our attention to the "inner space" of our planet.

101. On the other hand, it has been suggested that, in order to ensure the success of our undertaking, the Secretary-General be instructed to prepare a more detailed report on the activities which are already taking place in this field. That comprehensive report would give us important material and allow us to establish our positions on the most effective and appropriate ways of co-operation within the United Nations in the further study of various aspects of the problem before us.

102. Both approaches are likely to lead us successfully to our goal. Both confirm and recognize the need for international co-operation when dealing with the peaceful exploitation of the sea-bed and the ocean floor.

103. The problem now seems to be how to proceed further in organizing this international co-operation with a view to finding a way to achieve our long-range objectives. Perhaps a comparison with the history of the establishment of the Committee on the Peaceful Uses of Outer Space may be helpful in this regard. As members will recall, the Committee on the Peaceful Uses of Outer Space was established after an *ad hoc* Committee had dealt with the problem and prepared the terrain for the final decision on this question. I might remind you in this connexion that it took quite some time to reach final agreement on the establishment of that Committee and that a thorough study preceded the creation of the Committee on Outer Space.

104. In this context, I should like to refer to resolution 1348 (XIII) of the General Assembly by which an *ad hoc* Committee on the Peaceful Uses of Outer Space was established and requested to present to the next–that was the fourteenth–session of the General Assembly a comprehensive report on all relevant questions and problems pertaining to international co-operation in the study and uses of outer space for peaceful purposes. In particular, the *ad hoc* Committee had to report on the following points:

> "*(a)* The activities and resources of the United Nations, of its specialized agencies and of other international bodies relating to the peaceful uses of outer space;
>
> "*(b)* The area of international co-operation and programmes in the peaceful uses of outer space which could appropriately be undertaken under United Nations auspices to the benefit of States irrespective of the state of their economic or scientific development, . . .
>
> "*(c)* The future organizational arrangements to facilitate international co-operation in this field within the framework of the United Nations;
>
> "*(d)* The nature of legal problems which may arise in the carrying out of programmes to explore outer space;".

105. In that same resolution the Secretary-General was asked to render appropriate assistance to the above-mentioned Committee and to recommend any other steps which might be taken within the existing United Nations framework to encourage the fullest international co-operation in that field. I wonder whether a similar procedure, which would consist in establishing an *ad hoc* committee or some such body, would help us in making up our minds as to how to proceed with regard to the problem under discussion. Such an approach would have the advantage that the Secretary-General could prepare a detailed report on the activities which are already taking place in this field and could acquaint us with all the aspects involved in this complex question.

106. My delegation considers that approach a practical one, taking into consideration the two main suggestions made up to now in our debate, and we hope that it will be helpful in working out the relevant draft resolution. In fact my colleague from Brazil, who preceded me, made, as I understood him, a very similar proposal.

107. In conclusion, I wish to express again our satisfaction at the initiative taken by the delegation of Malta in bringing the present item to the attention of the General Assembly. As in outer space, in the field of the exploration of the oceans the pace of technical progress is apparently faster than legal developments. The widening of that gap must be avoided by all means. We were successful in achieving an international treaty on the peaceful uses of outer space. May I express the hope that our efforts in dealing with this new problem will be crowned with the same success.

108. Mrs. MYRDAL (Sweden): The Swedish delegation wants to join previous speakers in expressing its deep appreciation to the delegation of Malta for the initiative it has taken in bringing the present item before the General Assembly and for having so excellently summarized the prospects and potentialities for development in this new field of extending human activities to the sea-bed and the ocean floor. We feel the delegation of Malta has done us all a very great service, as it is both important and timely now to make this issue a matter of major concern to the United Nations and to examine it both within a more comprehensive framework and with a greater sense of urgency than hitherto. We do not for a moment believe that the deliberation of the item is premature: quite the contrary. It appears from the facts presented to us that it is high time that we all started paying attention to these problems, lest they become insoluble.

109. Also, the implication of the compliments already lavished on Ambassador Pardo for this initiative must be a recognition–and some speakers have made it explicit–that

it is no longer sufficient to leave the questions concerning the peaceful uses of the sea-bed to be dealt with in the fragmented fashion which has hitherto been prevalent. We find from the valuable information presented in the note by the Secretary-General that a number of initiatives, praiseworthy in themselves, have recently been taken to bring those problems under international scrutiny, but there is also the risk that necessary action may be retarded by the circumstances that several unco-ordinated and perhaps slow-moving studies proceed simultaneously. As a point of departure for our deliberations we must face the risk that scientific and technological developments are accelerating at such a speed that events might overtake us and leave us with little to negotiate and decide about, little to draw up rules about.

110. That risk is illustrated by what has happened so far. Present developments were not foreseen when the 1958 Convention on the Continental Shelf was concluded. We must not let that happen again. Let us not be discouraged by the fact that we now face a formidable task. Let us view it instead as a stimulating challenge to outline an international policy in this new field. We should constructively consider at least three different aspects: (1) exploration and research; (2) exploitation of resources; and (3) utilization solely for peaceful purposes.

111. The first aspect—exploration and research—is the one so far best covered by current studies. For upholding the principles of freedom for all States to continue such activities we can find parallel guidelines both in the treaty on the Antarctic[11] and in that regarding outer space. *[General Assembly resolution 2222 (XXI), annex.]* The ocean bed is but a new dimension in the drive for extending human activities to previously inaccessible environments. The other two aspects, however, evidence a more acute confrontation of international versus national interests and, therefore, require urgent decisions.

112. That immediately calls for careful assessment of the legal problem of the status of the ocean bed, as has also been suggested by most previous speakers. It cannot be denied that the present wording of the Convention on the Continental Shelf lends itself to an extensive interpretation that could lead to unreasonable results, to a scramble by coastal States to carve up and reserve for themselves the resources and strategic values of the sea-bed of the great oceans. Such a scramble could hardly occur without tensions. The results would also be most unfair to small States, to technically less developed States and to all States which fortune has not placed along the great oceans.

113. Cogent arguments can, however, be advanced against such an extensive interpretation. The 1958 Convention deals with the Continental Shelf, not the ocean floor, and it speaks of the sea-bed and subsoil adjacent to coasts, not the bottom under the oceans. Yet, even though there seem to be decisive arguments for a restrictive interpretation, it remains true that the legal situation of the matter should be authoritatively settled.

114. My delegation has no reason to conceal its sympathy for the attitude assumed by Malta on the legal aspect: beyond reasonably defined national jurisdiction over the Continental Shelf, the ocean bed must not belong to any nation. The oceans themselves, no one denies, are the joint property of mankind, like the air we breathe. It is inconceivable that, having inserted a brief, somewhat cryptic phrase into a convention, States could have intended to allow the parcelling-up of the sea-bed underneath the oceans.

115. The military problems that may be connected with the ocean bed also appear to be in urgent need of discussion before some irreversible course of action is taken by any Power. It would be paradoxical if the tendency to abolish foreign bases on land were to be matched by an opposite tendency to establish fixed bases on the ocean bed. The consequences of such a development might truly be far-reaching. It is hard, moreover, to conceive that such a development would not carry with it attempted national appropriation of large tracts of the ocean bed, a perspective which, as I have already said, would be tragic. As such a development could only be contemplated by States with the technologically most advanced and financially most exacting strategic planning, it would only serve to increase the already enormous preponderance of the super-Powers in relation to other nations.

116. The delegation of Malta has also rightly called our attention to the problem of the pollution of the oceans. The Swedish Government has for many years been keenly interested in achieving a reduction in the pollution of the sea by oil. Conventions for the prevention of such pollution now exist, although it is regrettable that not all States have adhered to them. It is clear, however, that conventions are not enough. The *Torrey Canyon* catastrophe points to the need for more far-reaching regulation. This must be considered by some international organ. It is, further, clear that pollution by oil is not the sole problem, but that pollution by radio-active material may call even more for international supervision and regulation.

117. The important problems raised, some of which are briefly and tentatively discussed, cannot be solved without a firm rule to the effect that the ocean bed and its resources beyond the continental shelf shall not be subject to national appropriation. However, it seems clear that such a rule would not be enough. The delegation of Malta has rightly called our attention to several principles that ultimately need be accepted regarding the ocean bed beyond the continental shelf. They may be summarized as follows:

118. It should be used only for peaceful purposes.

119. It should be open to all for exploration.

120. It should be exploited in the interest of mankind as a whole, with particular regard to the needs of poor countries.

121. It should not be explored or exploited in any manner inconsistent with the principles and purposes of the United Nations Charter or in a manner causing unnecessary obstruction or pollution.

122. The Swedish delegation has no difficulty in voicing sympathy with these principles, which establish a

11 *Ibid.*, vol. 402 (1961), No. 5778.

hegemony of the interests of the international community, and which aim at safeguarding the sea-bed against utilization for competitive national interests. Further, the Swedish delegation does not doubt that the proclamation of principles alone would be inadequate to solve the problems which arise. If exploration is not to be inhibited by uncertainty as to the right to reap the fruits of exploration, if exploitation is to be effectively supervised and controlled, and if a continuous watch is to be kept on the problem of pollution by oil, by radio-active material and by other substances, it would seem that a positive international supervisory and regulatory régime is indispensable. The delegation of Malta has offered valuable suggestions regarding the possible establishment of a specialized agency for the oceans. Such an agency might perhaps be so devised as to be able to assume a variety of functions–some totally new ones. It would also serve to eliminate the fragmentation and overlapping of competence that seems to exist among the organs which concern themselves with the problems of the oceans at the present time.

123. But it is equally apparent to us that during the present session of the General Assembly we cannot take final and decisive action on an issue of such far-reaching importance. Principles to be proclaimed require thorough consideration and discussion. Machinery that may need to be established would call for thorough preparation. We should not take precipitate action, but premeditated action. The Swedish delegation is inclined to agree, therefore, with the suggestions made by several speakers, namely, at this stage to establish a committee on the oceans.

124. Before we have received and have had an opportunity to absorb the reports which the Secretary-General intends to submit in response to the requests of last year's sessions of the General Assembly and the Economic and Social Council the task of a committee on the oceans might be an exploratory one: it might undertake surveys of the matter before us with a view to identifying and specifying the problems that arise and call for consideration and solution. With such advice by the Committee and by the Secretary-General, next year's session of the General Assembly might be in a position to formulate a wider and more definitive mandate for the committee. We should also like to stress that the composition of the committee would have to be such that representation was assured of technologically advanced as well as of hitherto less developed nations, of nations situated on the shores of oceans, but no less of nations not so located; and, of course, it would have to be such that equitable geographical representation was attained. In passing, may I say that it should of course be taken for granted that the establishment of a drafting group should not in any way prejudice the composition of the committee on the oceans.

125. In my opening remarks I qualified the matter before us as one of "major" concern to the United Nations. By establishing this year a committee on the oceans the General Assembly would adequately respond to this major concern. But the Assembly should also be conscious of and respond to the qualification "urgency" of some aspects of the matter. It would, therefore, seem *per se* desirable now to achieve expression of agreement on the crucial principle of "internationalization" of the ocean floor, or, as it is expressed in Malta's proposal *[A/6695]*, "reservation exclusively for peaceful purposes" and "the use of their resources in the interests of mankind". As we see it, the ultimate aim ought to be the achievement of an "internationalization" of this kind. If such a profession of principle could get general acceptance in a resolution, the Swedish delegation would highly welcome it. At any rate some measure ought to be taken already now in order, at least, to prevent things from getting worse. If left to themselves, even for a limited time, developments might well reach some points of no return. Appropriations for national use might occur and create situations which may later prove hard to undo.

126. Accordingly, my delegation would favour some measure to freeze the present situation, to avoid claims to the ocean floor and activities thereon–except scientific ones–until our deliberations have resulted in some conclusions. A resolution might include an appeal to all States to refrain from advancing any claims to jurisdiction over the ocean floor and its resources. So far, suggestions in a similar direction have been made by only a few delegations, notably those of Somalia, Chile, Ghana and Trinidad and Tobago, while the technologically advanced countries have been rather silent on this point. It may be hoped that especially the States having great financial and technological resources would heed an appeal that, pending the United Nations deliberations, they would refrain from taking any measures with a view to appropriating any parts of the ocean floor or resources on it, and in it, and refrain from activities on the ocean floor for military purposes. Such declarations on their part would amount to an important "gentlemen's agreement".

127. I hope it is not beyond the realm of realism to hope for such a "gentlemen's agreement" on freezing the *status quo*. Mankind has become warned that while negotiations are going on, technological developments are often accelerating and the opportunities to exploit them are grasped with such alacrity by those who have the power to do so, that when we finally come to the negotiating table there may not be a great deal left open to negotiate about.

128. Mr. WALDRON-RAMSEY (United Republic of Tanzania): My delegation must commence this intervention, like the delegations before us, by tendering to the delegation of Malta the sincerest congratulations of our Government upon the initiative taken by that delegation to bring this matter of such paramountcy to the attention of the General Assembly, and secondly, on the undoubted degree of pertinent research which the delegation of Malta undertook in order to apprise the General Assembly of the far-reaching import of this transcendental item.

129. My delegation, unlike other delegations, will refrain from entering into the substantive matters which are obviously ingrained in this item before us. If we speak now, therefore, it is simply to indicate our reactions to the procedural exercise which, as we understand it, this Committee should be engaged in, in order to elaborate the machinery for tackling this problem with maximum efficiency and expediting the work of this Committee on this particular issue. There have been a number of suggestions advocated by various delegations to the Committee. One has heard the suggestion that the Committee should take no

action on this question, but that it should invite the Secretary-General to indicate to the General Assembly the extent of the activity, within the United Nations system, of dealing with this matter.

130. There is another suggestion, that we might set up a committee which would deal not only with the item, as so concisely put by the delegation of Malta, but which would have a broad mandate to include all matters touching on and concerning this whole question of maritime jurisdiction and the activities which take place there.

131. Then there is the other suggestion that we might best utilize the opportunity that this debate gives us by setting up an *ad hoc* committee, presumably, which would look into all the ramifications attendant upon the item and report back to the General Assembly.

132. These, as we understand it, are the three propositions advanced in the interventions of those delegations which preceded us in this debate. We detect that there is a certain proclivity on the part of the more advanced technological Powers not to have this item discussed with any elasticity whatsoever, but that we should confine ourselves to such activity as has been going on so far within the United Nations system. This we find to be somewhat unfortunate, if we understand this attitude correctly, because it would seem to us to indicate a certain degree of negativeness on the part of the more technologically advanced countries. This, of course, is to be regretted. But we would have hoped, on the contrary, that due to the significance of this item to both the developed and the less developed countries, and indeed to the whole régime of mankind, that we, from the very beginning, would have been in a position to count upon the effective collaboration of all of the tendencies in this house. But we shall not pursue this line of analysis any further lest in such pursuit we tend to endanger the collaboration which my delegation still hopes will emerge as we proceed with this item.

133. It seems to my delegation that we need not trouble ourselves unduly at this stage with the essential ingredients involved in this problem. We need not touch, for instance, in detail upon the juridical elements which are necessarily included in this item. We find that certain delegations, perhaps due to a certain predilection for this aspect of the problem, have tended to allow themselves a certain elasticity. We need not, similarly, it seems to me, go into too much detail with respect to the economic elements involved in the problem, nor with respect to the security and strategic elements necessarily involved in the question surrounding the régime of the ocean floor, but we should hold over all of these necessary arguments until such time as we have set up a committee which would embrace all the tendencies of the General Assembly. The committee charged with this mandate would examine all the essential ingredients of this problem and then report back to the General Assembly.

134. The delegation of the United Republic of Tanzania would want to support that suggestion which would advocate the setting up of an *ad hoc* committee to look into this question and report back to the General Assembly. But in the setting up of this *ad hoc* committee we will have to take into account a number of criteria. The first criterion we must take into account is the traditional criterion that has been employed by the General Assembly, namely, the criterion of equitable geographic distribution.

135. Another of course is the criterion, for instance, of the necessary interest in this item that maritime States would have. But we must not forget either that, due to the all-embracing microcosmic nature of this problem, even States far away from the sea, land-locked States, must be interested in this particular item. These are other criteria which the General Assembly will want to consider in constructing a committee to look into this question.

136. Without attempting to broach the question of the number of members on this committee my delegation, as its preliminary view, would hope to see its membership not too much in excess of twenty-one or thereabouts, so that it would not become unmanageable for one reason or another. Those of us who have had some experience in these matters understand the importance of having a committee of this number. But like my colleagues of Nigeria and Ghana, particularly when they spoke yesterday, we would hope that even at this very early stage in the construction of the constitution of the committee we would want to give the committee certain guidelines and to charge it to pursue its mandate surrounded by certain well-established and agreed principles. There are three principles, it seems to my delegation, which should certainly command our attention when we attempt to charge this committee with its mandate.

137. The first principle, which was alluded to by the representative of Ghana yesterday *[1526th meeting]*, was the principle which would seek to establish that the resources of the sea-bed and the ocean floor beyond the continental shelf should not be the subject of any particular claim to sovereignty by any given State or nation. That is to say, the régime below the high seas should be encompassed by the same juridical acceptability as the régime of the high seas itself.

138. The second principle that we would want to invite this Committee to keep in mind and to have it before it constantly is the principle that the resources of the sea-bed, the ocean floor and the subsoil beneath the region beyond the continental shelf should be considered as the common heritage of all mankind. This of course would contemplate the universality of the concept itself and the idea of this concept reaching out to all elements of mankind. In this connexion we want to endorse and support the considerations just enunciated by the representative of Sweden, that is that we would hope that the technologically advanced countries would not even at this stage attempt by any unilateral action to appropriate to themselves any proprietary interests in that region which exists beneath the high seas, that those elements of established international law and the traditions of international law which require that the high seas should remain an open theatre, without any proprietary claim on the part of any particular State that this type of consideration should continue to be extended to the soil beneath the high seas and that, in the vernacular, the more advanced countries would not "jump the gun" at this stage and seek to appropriate to themselves this particular region.

139. The third principle which my delegation, like that of Ghana, would wish to commend to the General Assembly

for this *ad hoc* committee would be that the sea-bed and the ocean floor should be reserved exclusively for peaceful uses and activity and that we should banish from this environment altogether any contemplation or any existence of military activity, whether this military activity or quasi-military activity takes the form of an actual military exercise or activity which approximates to a military exercise.

140. We have not yet had the opportunity to review any draft resolutions on this question. We shall therefore state the views of our delegation when such resolutions come before the Committee. But we want to say even at this stage that we would expect the Committee to conclude its deliberations on this particular item by the establishment of an *ad hoc* committee which would deal with this question in its comprehensiveness, a committee constituted against the background of the criteria which I have alluded to earlier. The committee would examine or be charged with examining all the constituent ingredients of this particular problem–juridical, economic, security, strategic, and so on.

141. In the third place we would expect this committee to behave in the manner of a preparatory committee for the eventual holding of a conference which would elaborate a convention or protocol or treaty embracing the constituent elements involved in this entire problem.

142. We might invite the *ad hoc* committee to make an interim report to the next session of the General Assembly, after the committee has received from the Secretary-General a report and an analysis of the activities of the United Nations family in this area. Upon the basis of this interim report as to the scope of the inquiry, the succeeding session of the General Assembly might find it convenient to expand or contract the mandate of the *ad hoc* committee.

143. Those are the preliminary remarks which my delegation felt constrained to make on the subject.

*The meeting rose at 1.5 p.m.*

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