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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

VIEWS OF MEMBER STATES ON THE DESIRABILITY OF CONVENING
AT AN EARLY DATE A CONFERENCE ON THE LAW OF THE SEA

Report of the Secretary-General

Addendum

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REPLIES RECEIVED FROM GOVERNMENTS

CANADA

[Original: English]
25 August 1970

The Canadian Government is acutely aware of the need for the progressive development of international law in response to the new opportunities and problems created by increasingly rapid advances in technology, particularly those relating to the marine environment. Canada has supported and participated in every effort of the United Nations to achieve agreed rules of law with regard to the uses of the sea. While progress has been made in the development of such rules, important questions are still unresolved. The existing law of the sea is thus marred by inadequacies which are a matter of serious concern for the Canadian Government.

The 1958 Geneva Conference on the Law of the Sea resulted in a wide measure of agreement on many important questions, and the four conventions adopted at that Conference represent, in the view of the Canadian Government, a very substantial achievement. The Canadian Government believes that it would be inadvisable to prejudice this achievement by reopening all the rules of law embodied in those conventions. Rather, the Canadian Government considers that it would be preferable to attempt to resolve such questions as were not settled by the conventions or which have emerged since 1958. These include, in particular, the need to develop agreed rules of law on:

- (a) the breadth of the territorial sea;
- (b) the nature and extent of jurisdiction of the coastal State over coastal fisheries;
- (c) the rights and duties of States with regard to the conservation and management of the living resources of the sea;
- (d) the rights and duties of States with regard to the preservation of the marine environment and the prevention of its pollution and degradation;
- (e) the demarcation of the outer limit of the continental shelf; and
- (f) the exploration and exploitation of the natural resources of the sea-bed beyond the limits of national jurisdiction.

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The Canadian Government believes that the international community should direct its attention to these aspects of the law of the sea and seek to find appropriate solutions to the problems which they raise. The Canadian Government is pleased to be participating in the deliberations of the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor Beyond the Limits of National Jurisdiction, which is actively engaged in elaboration of a régime for the area covered by its mandate. The other outstanding questions referred to above, however, are not as yet receiving similar consideration. The Canadian Government believes that while all these questions are to varying degrees interrelated, different degrees of urgency attach to each; accordingly, the Canadian Government does not believe that they must necessarily all be considered together at one conference on the law of the sea.

The Canadian Government wishes to stress the need to allow for thorough preparation for any conference on the law of the sea so as to ensure that it will result in general agreement. The likelihood of such a result, in the view of the Canadian Government, should be the paramount factor in determining whether, how and when the United Nations might address itself to the outstanding questions of the law of the sea.

In view of the Canadian Government, particular urgency attaches to resolving those questions relating to the breadth of the territorial sea, jurisdiction over coastal fisheries, the conservation and management of the living resources of the sea, and the preservation of the marine environment. The Canadian Government would favour the convening of an international conference on these matters as soon as practicable. The Canadian Government would not object to having such a conference address itself as well to the question of the delimitation of the outer limit of the continental shelf if other members of the United Nations considered this desirable.

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NETHERLANDS

[Original: English]
14 July 1970

The reply of the Netherlands Government to the question of whether a third Conference on the Law of the Sea should be convened is in principle affirmative, with the proviso that there should first be good grounds for believing in the success of such a venture. The convening of a Conference for the codification of the law of the sea is a relatively rare occurrence, and it would therefore be advisable to consider carefully what subjects should be placed on the agenda.

The Netherlands Government considers that in the time which has elapsed since the failure of the last Conference in 1960, developments have taken place underscoring the importance to be attached to concerted action on the part of all nations. In the face of the apparent impossibility of drawing up an agreement on the limits of the territorial sea, a large number of States have taken unilateral action in claiming an extension of such limits. The three-mile limit traditionally recognized under international law has been replaced in some national legislations by limits of anything up to 200 miles. An international agreement establishing a maximum limit is therefore highly desirable. Such a limit could be in the order of twelve miles, all due allowance being made for the free passage through and over international straits and particular channels of navigation customarily employed by ships in transit.

In addition, the establishment of a maximum limit on the territorial sea would be acceptable to a number of coastal States only if special fishing rights outside territorial waters were granted to these States. The Netherlands Government would therefore not be opposed to establishing during such a conference the scope of such fishing rights outside the territorial sea limit to be agreed upon. In this connexion the Netherlands Government takes the view that this should in no way affect the 1964 London Fisheries Convention or its extension to States not at present parties to it. Moreover, the framework of this agreement could serve as an excellent point of departure for any new rules.

In resolution 2574A (XXIV), the main purpose of convening a Conference on the Law of the Sea is to arrive at a "clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits

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of national jurisdiction, in the light of the international régime to be established for that area". The Netherlands Government states its unqualified recognition of the importance of arriving at such a definition. The existing Convention on the continental shelf, drawn up at the first Conference in 1958, is outdated in this respect, and technological developments relating to the exploitation of the sea-bed make this a point requiring urgent clarification.

It is clear, moreover, that the establishment of an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction is dependent on these very limits. This might well constitute another reason for recommending that agreement be reached as soon as possible. The Netherlands Government is in favour of discussing during a conference as envisaged the desirability of establishing an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction, or at least certain aspects thereof. In this case it will be necessary for the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction to have completed its deliberations on these points, so that its findings may serve as a basis for the decisions to be taken at the conference. One benefit deriving from this would be the possibility of using the conference to solve as many outstanding problems as possible.

The Netherlands Government has noted with great interest the statement of 25 May 1970 by the President of the United States on "U.S. Oceans Policy". This statement proposes that all nations would agree to regard the natural resources of the sea-bed beyond the depth of 200 metres as the common heritage of mankind. The elaboration of this principle proposed in the statement constitutes an extremely important contribution towards establishing an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction. In principle, the Netherlands Government welcomes these proposals by the President of the United States and wishes to call to attention its own comments submitted in 1968, containing an outline of an international system of control over the economic exploitation of the sea-bed and the ocean floor (A/AC.135/1, pp.22-25).

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Finally, the Netherlands Government wishes to point out that, in its opinion, the principles which form the basis of the 1958 Geneva Conventions should be in no way affected and that any changes in the texts of these conventions should solely be made in so far as they are consequential upon the new rules to be agreed upon. The Netherlands Government considers that, substantially, any new rules governing the points dealt with above could well be regarded as supplementing and elaborating existing rules.

NEW ZEALAND

[Original: English]

26 August 1970

New Zealand, as an island country located in the middle of a vast oceanic environment, strongly supports international efforts to codify and develop the law of the sea.

Substantial advances in this field were made at the 1958 Geneva Conference. It would appear to be both unnecessary and undesirable to undertake now anything in the nature of a general review of the rules embodied in the four conventions which were the product of that Conference. New Zealand would accordingly not favour a further conference on the law of the sea with a mandate as broad as that apparently envisaged by General Assembly resolution 2574A (XXIV).

It is recognized, however, that there are a number of issues which were not settled by the 1958 and 1960 Conferences, which now demand attention, and which, in all probability, can only be resolved satisfactorily at one or more international conferences. Outstanding among these are:

(a) The establishment of a clear, and internationally accepted precise definition of the area of sea-bed and ocean floor beyond the limits of national jurisdiction - the topic given special emphasis in resolution 2574A (XXIV), and

(b) The breadth of the territorial sea and associated questions.

Both of these issues are large, complex and the subject of a wide range of competing national interests. It is thought that the rapid development of significant and widely accepted international rules is most likely to be achieved if the two issues are treated separately. New Zealand therefore envisages that more than one international conference may eventually be found to be needed. If the experience of the 1958 and 1960 Geneva Conferences is to be avoided, it is essential that, in each case very thorough preparatory work be undertaken and carried to a point where there is a real prospect of a successful outcome to any conference that may be convened. New Zealand will support the convening of a conference or conferences to deal with these issues at the earliest date consistent with this requirement.

The preparatory work on the definition of the area of sea-bed and ocean floor beyond national jurisdiction would best be carried forward in the Committee on

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the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction. That Committee has already done useful work on the closely related question of the nature of an international régime for the area and, as noted in statements by the New Zealand delegation at the twenty-third and twenty-fourth sessions of the General Assembly, further progress towards the establishment of an appropriate international régime can be expected to improve the climate in which an exact boundary for the area will be established.

NORWAY

[Original: English]
15 July 1970

The Norwegian Government recognizes the increasing importance of solving the manifold problems with regard to the questions related to the law of the sea. Extensive work has been done by the international community to regulate these questions, and the Norwegian Government strongly supports further efforts by the United Nations to provide for international agreements in this field.

Some of the problems related to the law of the sea should in the view of the Norwegian Government be given urgent international attention. The questions bearing upon the breadth of the territorial sea was one of the matters where an agreement could not be reached at the conferences in 1958 and 1960. The Norwegian Government believes that this question has matured since that time, and that this question and the related issues regarding international straits and coastal fisheries beyond the territorial sea should be dealt with at a separate international conference as soon as possible.

The Norwegian Government further reiterates its positive interest in reaching an early international agreement with regard to the question of defining the delimitation of the areas of the sea-bed and ocean floor which lie beyond national jurisdiction and the areas within that jurisdiction.

The Norwegian Government also draws attention to the importance of the protection of the environment and the resources of the sea, and the prevention of pollution.

The Norwegian Government believes, however, that some of those matters covered by resolution 2574A (XXIV) have not matured sufficiently for an international agreement to be reached with a short period and that they need to be given further study by the international community.

The Norwegian Government would therefore prefer that the different questions mentioned in resolution 2574A (XXIV) be dealt with in separate conferences of a limited character when the advance preparations give rise to the hope of a successful outcome. To deal with all the issues mentioned in resolution 2574A (XXIV) in one conference could lead to considerable delays in tackling the most acute problems in the field of the law of the sea.
