UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/42/688
5 November 1987

ORIGINAL: ENGLISH

Forty-second session
Agenda item 32

LAW OF THE SEA

Report of the Secretary-General

CONTENTS

87-27874 5597e (E) 53p.

/...

CONTENTS (continued)

/...

CONTENTS (continued)

CONTENTS (continued)

INTRODUCTION

1. General Assembly resolution 41/34 of 5 November 1986 requested the Secretary-General, inter alia, to report on developments relating to the United Nations Convention on the Law of the Sea 1/ and on the implementation of the resolution. The present report is submitted in accordance with that request. 2/ Following earlier practice, the present report is in two parts, the first of which reviews the impact of the Convention on state practice and related marine activities. It also reflects the activities of international organizations in these fields as well as those of the International Court of Justice and other tribunals dealing with the settlement of disputes concerning the law of the sea. The second part outlines the programmed activities of the Office of the Special Representative of the Secretary-General for the Law of the Sea under the medium-term plan.

2. The United Nations Convention on the Law of the Sea continues to provide a focus for ocean-related activities and for marine affairs in general. It has attracted increasing support, with more than half of the ratifications or accessions required for its entry into force having been deposited, following the unprecedented number of signatures appended to it. It has exerted an immense influence on marine affairs in general. As States resort increasingly to the seas and oceans to supplement their developmental needs, there has been a marked trend towards the establishment of maritime régimes consistent with the norms embodied in the Convention.

3. While these developments in the uses of the seas in areas under national jurisdiction have continued to reinforce and strengthen the Convention, significant developments have also taken place in respect to the international régime for deep sea-bed mining. In this respect a historical step was taken when the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea decided to register India as a pioneer investor under resolution II. Before the end of 1987, the General Committee of the Preparatory Commission will consider the applications of France, Japan and the Union of Soviet Socialist Republics for registration as pioneer investors under resolution II. The allocation of mine sites to the pioneer investors is accompanied by the reservation of sea-bed areas of equal estimated commercial value for the International Sea-Bed Authority to be developed under the régime for the international sea-bed area.

4. The increased impetus created by the maritime activities of States and their desire to benefit further from the uses of the seas and its resources have led to heightened activity in many international organizations. They have developed their programmes and activities to respond to these needs and to reflect the new régime for the oceans established by the Convention. Thus, many agencies and bodies of the United Nations, each within its sphere of competence, have responded to the enhanced activities of Member States.

5. The activities at national and international levels relate to all aspects of the uses and resources of the seas and cover all fields of marine affairs. Consistent with these developments, the activities of the Secretariat in most aspects of marine affairs have been consolidated in order to rationalize and streamline the activities of the United Nations, thus avoiding overlaps and creating greater efficiency.

PART ONE

DEVELOPMENTS RELATING TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

I. STATUS OF THE CONVENTION

6. The United Nations Convention on the Law of the Sea closed for signature on 9 December 1984, having received a total of 159 signatures. The Convention will enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. As at 3 November 1987, 35 instruments of ratification have been deposited with the Secretary-General, as follows: Bahamas, Bahrain, Belize, Cameroon, Cape Verde, Côte d'Ivoire, Cuba, Democratic Yemen, Egypt, Fiji, Gambia, Ghana, Guinea, Guinea-Bissau, Iceland, Indonesia, Iraq, Jamaica, Kuwait, Mali, Mexico, Nigeria, Paraguay, Philippines, Senegal, Saint Lucia, Sao Tome and Principe, Sudan, Togo, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Yugoslavia, Zambia and the United Nations Council for Namibia.

7. Upon ratification, 10 States made declarations. 3/ Five States made declarations in accordance with article 287 with respect to the choice of procedure for the settlement of disputes concerning the interpretation or application of the Convention. 4/ Three States made declarations under article 298 with respect to the categories of disputes excepted from the binding dispute-settlement procedures contained in Part XV, section 2, of the Convention. 5/

II. STATE PRACTICE AND NATIONAL POLICY

8. The Convention remains the model on which States have based their maritime legislation with respect to maritime areas falling under their sovereignty and jurisdiction: the territorial sea, the contiguous zone, the exclusive economic zone, continental shelf and the régime of archipelagic States.

9. It is generally accepted that the adoption by the Convention of a 12-mile territorial sea constitutes a major contribution to international maritime law. According to the latest information available, the number of States claiming a territorial sea of 12 miles is now 103. 6/

10. States that are constituted by one or more mid-ocean archipelagos may, under certain conditions specified in the Convention, draw straight baselines joining the outermost islands and drying reefs of the archipelagos (archipelagic baselines). Under the Convention the waters enclosed within archipelagic baselines are known as "archipelagic waters" and the archipelagic State exercises sovereignty over such waters, its sea-bed, subsoil and the airspace above. The Convention has created a special régime for the passage of ships and aircraft through and above the archipelagic waters. The following States have incorporated the concept of "archipelagic States" in their legislation: Antigua and Barbuda, Cape Verde, Comoros, Fiji, Indonesia, Kiribati, Maldives, Mauritius, Philippines, Sao Tome and Principe, Solomon Islands, Trinidad and Tobago, Tuvalu and Vanuatu. It should be

noted that on this matter the legislation of Indonesia and Philippines predates the Third United Nations Conference on the Law of the Sea.

11. The Convention provides for a contiguous zone where a coastal State may exercise the control necessary to prevent and punish infringements of its custom, fiscal, immigration, health and safety laws or regulations committed within its territory or territorial sea. The Convention followed the 1958 Geneva Convention but has extended the contiguous zone from 12 to 24 nautical miles.

12. Some 19 States have made express claims to a 24-mile contiguous zone as provided for in the Convention. 7/

13. Of the 142 coastal States, some 72 have established exclusive economic zones and 19 exclusive fishery zones.

14. The Convention provides that the continental shelf of a coastal State extends throughout the natural prolongation of its territory to the outer edge of the continental margin or to a distance of 200 miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance. The Convention further provides technical criteria for the delimitation of the continental shelf where it extends beyond the 200 miles limit.

15. While some States have enacted new legislation on the continental shelf, others have not yet updated their legislation, based as it is on the Geneva Convention on the Continental Shelf. Certain difficulties arise in the practical implementation of the technical criteria contained in the Convention, particularly with respect to acquisition of the geophysical and geological data concerning the continental margin. The acquisition of such data would require a scientific survey of continental margins. The delineation of the outer limit of the continental shelf of States is also important in defining the international sea-bed area, which begins where areas under national jurisdiction end.

Maritime boundaries

16. The political map of the world has been considerably altered by the extension of maritime jurisdiction of coastal States resulting from the 1982 Convention on the Law of the Sea. The extended jurisdiction of States has necessitated the delimitation of boundaries between States with adjacent or opposite coastlines. Approximately 95 inter-State maritime boundary agreements have been concluded, representing about one third of the boundaries that need to be settled. Most of these boundary agreements were negotiated during the last 15 years, largely because of the surge of interest in offshore oil and gas in the early 1970s and the negotiations in the Third United Nations Conference on the Law of the Sea.

17. It will be some years yet before the maritime political map of the world is complete. The North Sea and the Baltic Sea possess the most extensive delimitation system, although in the case of the latter there are still outstanding issues. In the Caribbean and Gulf of Mexico region boundary agreements have progressed well

but further progress has been affected by the island geography of the region. The Mediterranean, with its complex coastal configurations and islands of varying size producing numerous technical and legal problems, has long exemplified many maritime boundary problems. The complex political problems obtaining both in its western and eastern parts also help explain why only five agreements have been completed, four of these between Italy and its neighbours. 8/

18. There are a number of boundaries in several regions that remain to be settled but that do not present any difficulties. There are others, however, that may be subject to protracted disputes, the most difficult of which are those involving sovereignty over land territory, in particular, those involving sovereignty over islands. The issue of sovereignty is the most common cause of conflict and until the question of ownership is settled, maritime boundary delimitation is not possible. The South China Sea and the Gulf of Thailand probably face the greatest difficulties, since islands are disputed and the maritime areas in question have hydrocarbon prospects or important fisheries and also carry strategic significance.

19. States ultimately have every reason to seek prompt and lasting agreements in order not only to secure their areas of jurisdiction and pursue offshore mineral development and fisheries management but also for environmental management and national security.

20. It should also be noted that in recent times joint development areas have become a useful method of resolving boundary disputes between neighbouring States and as a mechanism for co-operation in the exploration and development of offshore resources. This is exemplified in the following agreements: Bahrain/Saudi Arabia, 1958; Iran/Saudi Arabia, 1969; Sudan/Saudi Arabia, 1973; Japan/Republic of Korea, 1974; Colombia/Dominican Republic, 1978; and Iceland/Norway, 1982.

Boundaries and management

21. There is currently an active interest, particularly among marine geographers, in developing methodologies for integrating political boundaries with ocean management needs, which do not always correspond to them. 9/

22. Functional boundaries created for specific purposes, e.g. port operations, emergency measures and traffic separation lanes often reflect the pattern of the activity without any particular connection to political boundaries. All-important data bases for fisheries and ocean observing systems are based on geographical zones (by longitude and latitude). Many tasks associated with fisheries management are not best performed by reference only to jurisdictional boundaries. There has consequently been a trend towards harmonizing national policies to the needs of co-operative management and conservation of living resources transcending political boundaries. It is in the area of mineral resource development that political boundaries assume their true importance.

III. SETTLEMENT OF CONFLICTS AND DISPUTES

El Salvador - Honduras

23. By a special agreement concluded at Esquipulas in Guatemala on 24 May 1986, El Salvador and Honduras submitted their land, island and maritime frontier dispute to the International Court of Justice for a decision. At the request of both Governments the Court has formed a special chamber of five judges to deal with the case.

24. The dispute concerns one third of the common frontier, about 469 square kilometres of territory, and also involves the determination of the juridical status of the maritime spaces of some islands in the Gulf of Fonseca.

IV. OTHER DEVELOPMENTS RELATING TO THE LAW OF THE SEA

A. Peaceful uses

1. Naval arms race

25. At its May session the Disarmament Commission 10/ concurred with the view that, at the present stage, confidence-building measures, both in the global and the regional context, would be more amenable to further consideration and possible negotiation in the appropriate forums. It was recognized that a fundamental feature of the global maritime environment, both military and non-military, was freedom of navigation and that naval confidence-building measures should be in harmony with current law of the sea. Suggested initiatives included: extension of existing confidence-building measures to seas and oceans, especially to areas with the busiest sea lanes; prior notification of naval activities; the invitation of observers to naval exercises or manoeuvres; limitations on the number or scale of naval exercises in specific regions; exchange of information and greater openness on naval matters in general; and strict observance of existing maritime measures designed to build confidence. It was also felt that the possibility should be pursued of negotiating a multilateral agreement concerning the prevention of incidents at sea beyond the territorial sea in addition to existing bilateral agreements. 11/

2. The Gulf war and merchant shipping

26. The year 1980 saw the commencement of hostilities between Iran and Iraq. The so-called Gulf war has continued with intensifying hostilities. It has also assumed an increasingly maritime dimension, with frequent attacks being made on merchant ships in the Gulf. It has been estimated that since 1981 some 310 ships have been hit and either sunk or damaged.

27. The attacks on merchant shipping raise the issue of freedom of navigation on the high seas, and the right of passage through the territorial sea and international straits. It will be recalled that the Security Council has, in

resolution 598 (1987) (see also resolution 582 (1986)), reiterated its calls for a cease-fire and for, inter alia, discontinuance of all military activities on land, at sea and in the air. More recently a maritime session of the International Labour Conference attended by government, shipowner and seafarer delegations from 77 member countries of the International Labour Organisation (ILO) adopted a resolution expressing serious concern that armed conflict endangered merchant shipping. It appealed to ILO member countries to exert their influence to persuade the warring States to refrain from attacking merchant shipping in international waters and to put an end to armed conflicts.

3. South Pacific region

28. It may be noted that the South Pacific Nuclear Free Zone Treaty (described in the previous report, A/41/742) entered into force on 11 December 1986 with eight ratifications. The three associated Protocols were opened for signature on 1 December 1986. The first Protocol has not as yet been signed by any of the three nuclear-weapon States with territories in the region invited to apply key provisions of the Treaty to those territories. Protocols II and III, directed at all five nuclear-weapon States, have been signed by the Soviet Union and China.

B. Maritime law

1. Maritime law

(a) Implications of the Law of the Sea Convention for the International Maritime Organization and its conventions 12/

29. The IMO Assembly decided that a careful and detailed examination of the provisions of the United Nations Convention on the Law of the Sea was necessary to assess the implications of the Convention for the conventions and work of IMO. It was particularly interested in determining the scope and areas of appropriate IMO assistance to member States and other agencies, and of the necessary collaboration with the Secretary-General on the provision of information, advice and assistance to developing countries on law of the sea matters within the competence of IMO. The study that was prepared in collaboration with the Office for Ocean Affairs and the Law of the Sea is now ready for issue and circulation. 13/

(b) Suppression of unlawful acts against the safety of navigation

30. A new convention to fill a gap in international law will be adopted early in 1988. The first international actions on the problem, as demonstrated by the seizure of the SS Achille Lauro, were taken in late 1985 by the United Nations General Assembly and the IMO Assembly. 14/ These were followed by the elaboration of preventive measures by the IMO Marine Safety Committee to protect ships, passengers and crews. 15/ Shortly following the completion of this work, the question was then taken up in the IMO Council with a view to adopting an international instrument aimed at suppressing such terrorist acts. While three universal conventions 16/ deal with the safety of air navigation in this respect,

the safety of maritime navigation is not covered by any similar international instrument. 17/

31. At the fifty-seventh session of the IMO Council, the Governments of Austria, Egypt and Italy proposed this step and presented a draft Convention to provide for a comprehensive suppression of unlawful acts committed against the safety of maritime navigation that endanger innocent human lives, jeopardize the safety of persons and property, seriously affect the operation of maritime services and thus are of grave concern to the international community as a whole. The Council agreed unanimously that the matter was urgent and established an ad hoc Preparatory Committee with the mandate to prepare a draft convention on a priority basis. 18/ That Committee considered the draft in March and again in May, as well as the possibility of extending the Convention to cover unlawful acts against fixed platforms, and submitted to the fifty-eighth session of the IMO Council a draft Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, as well as a draft Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf. The Council decided to convene a diplomatic conference to adopt the Convention, to be held at Rome from 1 to 10 March 1988.

32. The draft IMO Convention is based on the absolute application of the principle either to prosecute or to extradite. 19/ After defining the respective offences, it establishes each State party's obligation to extend its penal jurisdiction in order to pursue suspects in its territory or under its control, and either prosecute or extradite them to the country requesting their extradition that has jurisdiction to bring them to trial.

33. The draft Convention closely follows in all essential elements and specific wording (definition of the "offence", severity of penalties, establishment of jurisdiction, inquiry into the offence, alternative between extradition or prosecution) the 1970 Hague Convention and the 1971 Montreal Convention.

(c) Offshore installations and structures

34. Article 60 of the Convention on the Law of the Sea requires that structures that are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established by the competent international organization (IMO); it requires also that their removal shall have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Where structures are not entirely removed, appropriate notification has to be provided of their depth, position and dimension. 20/

35. As offshore petroleum resources are depleted, many more platforms and associated equipment will become redundant. It is important, therefore, to establish a policy on what is to be done with structures that have outlived their usefulness and may constitute dangers to navigation and other uses of the sea. As yet, few countries have experience with rig removal problems, although it has been found (in the Gulf of Mexico) that the use of explosive charges can be very destructive of marine life. Study of the technology required for total removal is indicated.

36. Draft preliminary guidelines on safety questions related to the dismantling of disused or abandoned offshore structures have been prepared by the IMO Sub-Committee on Safety of Navigation; 21/ a complete set of guidelines will not be finalized until other bodies, beginning with the IMO Marine Environmental Protection Committee, have examined the legal, environmental and technical aspects of the question. 22/ FAO has already offered to co-operate.

37. Safety issues of concern included determination of the depth to which rigs must be removed in order to safeguard surface and subsurface navigation; setting standards for maintenance of decommissioned rigs, including proper lighting and providing adequate notice to mariners of their location; and charting of those structures not completely removed. Proposals ranged from removal only from locations traversed by shipping and only to the extent of ensuring a sufficient unobstructed water depth, to establishment of an international requirement for their total removal allowing only very limited exemptions, primarily for those structures which could be put to a bona fide new use, e.g. as an artificial reef to attract fish. Some coastal States were of the view that they should be allowed to decide on a case-by-case basis which platforms should be partially or completely removed, although total removal was considered advisable in shallow seas where the water depth is less than 300 metres. No clear decision has yet been reached on the question of complete or partial removal. The Sub-Committee will meet again in 1988 to study the advice and comments of the Marine Environmental Protection Committee. Subsequent considerations of environmental and fishery aspects can be expected to give final precision to the guidelines, which are the responsibility of the IMO Maritime Safety Committee.

38. At the same time, draft measures have been formulated on the prevention of infringement of safety zones around offshore structures (covering mobile offshore drilling units when on station, 23/ production platforms, artificial islands, accommodation platforms, units and ancillary equipment), in view of the serious threats that any collision would pose for the safety of personnel, the environment and the structures themselves. The measures call for vessels to navigate carefully in the areas concerned, particularly where the installation or structure is also used as a navigational aid, to use any designated routing systems and to maintain a continuous listening watch in or near such areas. Coastal States should issue early notices to mariners advising of the locations of structures, the breadth of any safety zone and the rules applying therein, and any available fairways. They should also require operators to take adequate measures to prevent infringement of safety zones. Coastal States are called on to take appropriate action against those responsible for infringements or at least to notify the flag State, giving details of factual evidence sufficient to substantiate the infringement. The flag State should inform the coastal State of the follow-up action it takes. These measures thus recognize the competence of the coastal State to take action against and penalize violations of its rules concerning safety zones around offshore structures coming under its jurisdiction. These proposed measures now go to the fifteenth IMO Assembly for adoption.

2. Maritime labour law

Maritime labour

39. The drafts of the new instruments and recommendations, prepared by the Preparatory Technical Maritime Conference in May 1986, will go for adoption to the maritime session of the International Labour Conference in October 1987. The draft conventions deal with seafarers' welfare, social security, health protection and medical care, repatriation and minimum standards in merchant shipping and were described in the 1986 report (A/41/742).

3. Illicit traffic in drugs and psychotropic substances

40. The increasing difficulties encountered by law enforcement and other government agencies in coping with widespread and intensified illicit drug trafficking has led to preparation of a new convention to strengthen international co-operation and co-ordination among customs, police and judicial bodies, providing them with guidelines to intercept illegal drug traffic at all stages. The present draft, the product of an intergovernmental expert group, contains 14 articles. 24/ Its provisions would seek to prevent illicit trafficking by sea (art. 12). In addition, commercial carriers would be required to take reasonable precautions to prevent the use of their facilities and means of transport for illicit trafficking. 25/

41. Article 12 of the most recent draft of the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 26/ is of special interest to the law of the sea. It gives a State party the right to board, search and, if evidence of illicit traffic is discovered, seize a vessel flying the flag of another State beyond the external limits of the territorial sea of any State if there is reasonable grounds for believing that that vessel is engaged in illicit traffic. This right can be exercised if the State party has received prior permission from the flag State and is without prejudice to any rights provided for under general international law.

42. It may be noted that the Convention on the Law of the Sea provides that States shall co-operate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas (art. 108).

43. At the July meeting of the open-ended intergovernmental expert group, established by Economic and Social Council resolution 1987/27, on the preparation of a draft Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, article 12 gave rise to some important discussions. It was emphasized that any action against ships by States other than the flag States in cases where the evidence of illicit traffic was not clear and manifest could lead to abuses and might undermine important legal principles.

44. In the draft before the expert group, article 12 referred to the vessel engaged in illicit traffic as being on the high seas as defined in Part VII of the Convention on the Law of the Sea. The reference in the draft to the latter

Convention was not considered appropriate by some delegations as that Convention, after its entry into force, might not be binding on all Parties to the future Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The reference to the "high seas" was the object of divergent views. Instead of the term "high seas" the Group agreed to refer to the area "beyond the external limits of the territorial sea without prejudice to any rights enjoyed by the coastal State seaward of those limits". Some representatives expressed reservations with regard to this formulation, in view of the fact that, as signatories to the Convention on the Law of the Sea, they would construe the provisions of article 12 in a way compatible with their obligations under that instrument.

45. The Commission on Narcotic Drugs, by its resolution 3 (XXXII), endorsed the recommendation of the first Interregional Meeting of the Heads of National Drug Enforcement Agencies for co-operation in suppressing drug trafficking on the high seas, in free trade zones and where international commercial carriers are involved. 27/

46. The Comprehensive Outline 27/ to combat drug abuse and trafficking adopted by the 1987 Vienna Drug Conference included, as Targets 26 and 28, "Surveillance of land, water and air approaches to the frontier" and "Controls over ships on the high seas and aircraft in international airspace". Under Target 26, Governments are called on to develop, implement and co-ordinate plans for maritime surveillance by national guard, coast guard and air control authorities; and to authorize coast guards and similar agencies to stop and search vessels and aircraft on reasonable grounds of suspicion of illicit carriage of drugs. Under Target 28, Governments are requested to permit law enforcement officials to board and seize a vessel unlawfully carrying drugs under certain conditions; to respond promptly when asked for permission to stop, board and search such a vessel if it is under its registry; and to conclude bilateral and regional agreements to strengthen co-operation in this area.

4. Other matters

Wrecks

47. With the 1985 discovery of the RMS Titanic about 700 kilometres south-east of Newfoundland, Canada, by a joint United States/French expedition, questions have arisen as to the status of this historical object and jurisdiction applicable to its use. The United States Congress adopted an act in 1986 to encourage the designation of the shipwreck as an "international maritime memorial" by means of an international agreement that would also protect its scientific, cultural and historical significance. The United States has pledged itself to co-operate with the United Kingdom, France, Canada and other interested parties to this end. Canada has claimed jurisdiction over the wreck, as lying on its continental slope. More recently a French expedition has been organized to salvage the RMS Titanic's artefacts.

48. It will be recalled that the Convention imposes a general duty on States to protect archaeological and historical objects found at sea. A coastal State may

prevent removal of such objects from the sea-bed of the contiguous zone without its approval (art. 303). Objects of an archaeological and historical nature found in the international sea-bed area are to be preserved or disposed of for the benefit of mankind as a whole, particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin (art. 149).

C. Protection and preservation of the marine environment

1. General

49. All major reports on the environment published in 1987 express concern over the status of and trends in pollution of the seas, particularly in near shore areas, and call for the expansion of data bases for monitoring and assessment and the intensification of legal and institutional action. 28/

50. While considerable progress has been made on such global matters as the ozone layer and climatic changes due to increases in carbon dioxide and other greenhouse gases, 29/ there are still considerable gaps and a particular lack of reliable information about the environment in developing countries, which also add to the difficulties of producing regional and global assessments of the state of the environment. 30/ Most monitoring programmes are localized and true time series data for most areas are not available - a problem that affects all marine sciences.

51. The established priority for the United Nations Environment Programme (UNEP) Regional Seas Programme remains unchanged. However, it is recognized that action plans and related regulatory frameworks need now to be followed up with concrete implementation and greater financial commitment.

52. Recent developments on environmental impact assessment are notable.

2. Environmental impact assessment

53. Under the Convention on the Law of the Sea, States are required to co-operate directly or through competent international organizations undertaking programmes of scientific research and encouraging exchange information and data acquired about pollution of the marine environment (art. 200). In particular they are obliged directly or through competent international organizations to provide appropriate assistance especially to developing States concerning the preparation of environmental assessments (art. 202). Concentrated attention has for some time been given to the methodology involved, primarily by UNEP, by the Organisation for Economic Co-operation and Development (OECD), the Council for Mutual Economic Assistance (CMEA), the Economic Commission for Europe (ECE), and the Paris Commission. 31/

54. There are many ways of conducting environmental impact assessments and indeed a number of countries have developed legislation and machinery for their implementation. What was lacking was an acceptable global framework for conducting

such assessments, not only for the benefit of States, but also for international development agencies. 32/ Goals and principles have now been adopted by UNEP (decision 14/25). They seek to establish that before decisions are taken on activities that are likely to significantly affect the environment, the environmental effects of those activities should be taken fully into account (this goal is consistent with the provisions of article 206 of the Convention); to promote appropriate procedures in all countries consistent with national laws and decision-making processes; and to encourage procedures for information exchange, notification and consultation between States where significant transboundary effects may be likely. IMO has emphasized the importance of taking into account internationally accepted standards, including standards developed by competent international organizations, and of encouraging full use of existing international forums where States may consult and exchange information.

55. The goals and principles reflect a consensus view on such subjects as the early identification of potential environmental effects; the minimal requirements that an environmental impact assessment should include; the importance of impartiality and the opportunity for full comment during the assessment process; the need to include follow-up monitoring; and the minimal requirements that States should meet when their activities are likely to have significant effects on the environment of other States.

3. Regional Seas Programme

56. Nine of the 11 UNEP regional seas have adopted action plans and 5 out of the 7 regions with regulatory frameworks now have conventions in force. A total of 14 United Nations bodies and agencies and over 40 international and regional organizations now participate in the Regional Seas Programme. Recent developments of note concern the South Pacific, Wider Caribbean, Mediterranean and South and East Asian Seas Regions.

57. The following instruments were adopted for the South Pacific, in Noumea, on 25 November 1986: the Convention for the Protection and Development of the Natural Resources and Environment of the South Pacific Region, which requires the contracting parties to prevent, reduce and control pollution in the Convention area from any source, including that which might result from the testing of nuclear devices; the Protocol concerning Co-operation in Combating Marine Pollution Emergencies in the South Pacific Region; and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, which reflects the provisions of both the London Dumping Convention and United Nations Law of the Sea Convention. The Convention is noteworthy for its linking of environmental management and resource development, and its recognition of the special ecological nature of the region.

58. The Convention area is limited to the exclusive economic zones, to the territories of Parties, and to enclaves of high seas contained within the region; it stretches from Palau in the north-west to the Marshall Islands in the north, Kiribati in the north-east, Australia in the south-west, and New Zealand in the south-east. The acceptance of a prohibition on disposal of radioactive waste and

other radioactive matter into the sea and sea-bed, without a demonstration that such disposal would or would be likely to cause harm to the marine environment, was conditional on limiting the Convention area, as described. A substantially larger Convention area had been sought earlier by some States of the region.

59. There is now a draft action plan for the South Asian Seas Region. It envisages co-operation in implementing and enforcing relevant international agreements. Activities will concentrate on protected areas, state of the region's environment, contingency planning, land-based sources, environmentally sound waste management technology and associated policies, as well as environmental education and promotion of public awareness in countries of the region.

60. For the East Asian Seas Region, an association of scientists is being formed to review projects and act as an advisory body. A new Centre for Specially Protected Areas has now been established for the Mediterranean at Tunis. The 1983 Cartagena Convention for the Wider Caribbean and its Protocol on pollution emergencies are now in force and the first meeting of States parties is scheduled for October 1987.

61. The success of the Regional Seas Programme is attributed to its political strategy and to the requirement that management and financing be undertaken by the participating coastal States, but there is now a major challenge to be confronted in order to make the crucial move beyond general agreement on goals and co-operation on research. The need for greater focus on land-based sources of marine pollution in most regions has become more and more apparent, along with issues of waste management and requisite technology, matters that call for making solid investments.

4. Ocean dumping

62. The decisions of the tenth Consultative Meeting of Contracting Parties to the London Dumping Convention were reported last year (A/41/742, paras. 59-66); the eleventh meeting will not be held until 1988. Important inter-sessional meetings, however, were planned on general scientific and legal aspects, and on the issues surrounding radioactive wastes.

63. Wastes have become more and more complex in their nature, so that the London Dumping Convention Scientific Group on Dumping has had to make major changes and improvements in the allocation of substances to the annexes to the Convention and their position therein. The sheer magnitude of waste disposal problems in general, however, is a cause for special concern and the Group is also now actively considering alternative control strategies, 33/ the results of which may be expected to have major impacts on the implementation of the global convention (the London Dumping Convention) and on the regional instruments (the Oslo Convention and UNEP regional instruments). Most regulatory systems at the moment are based on the black/grey list approach. While there would always be a need for a "prohibited" category of substances, or black list, the continuing dominance of the overall approach is now under serious evaluation. Under particularly close scrutiny is the concept of "environmental capacity", 34/ which recognizes the ability of the

environment as a whole to accommodate wastes, subject to proper assessment and control procedures. 35/ It is not a completely scientific concept; its application includes political and economic considerations.

64. The tenth Consultative Meeting agreed that the Ad Hoc Group of Legal Experts on Dumping should meet in October 1987 to consider the general implications of the Law of the Sea Convention for the London Dumping Convention and the nature and extent of the rights and responsibilities of a coastal State in a zone adjacent to its coast (London Dumping Convention articles VII (3) and XIII). It is also to study procedures for the assessment of liability for environmental damage resulting from dumping and incineration at sea.

5. Pollution from radioactive substances

65. The London Dumping Convention Panel of Experts on Radioactive Waste Disposal at Sea (October 1987) is called on to evaluate wider political, legal, economic and social aspects, and to consider the issue of comparative land-based options and associated costs and risks. It will also take up the difficult question of whether it can be proven that any dumping of these wastes will not harm human life and/or cause significant damage to the marine environment.

66. Attention is also drawn to the two 1986 Conventions adopted under the auspices of the International Atomic Energy Agency (IAEA) that are now in force: the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency. Certain of their provisions could be regarded as covering sea-related events since their application is not restricted to nuclear accidents occurring on land. The first Convention applies in the event of a nuclear accident having radiological transboundary significance for other States and involving specified facilities and activities, among them "any nuclear reactor wherever located" and the transport of nuclear fuels, radioactive wastes and radioisotopes (arts. 1 (1) and 1 (2) (a) (d) and (e)). Thus its States parties may well interpret such provisions as being applicable to offshore island nuclear installations, nuclear-powered ships and maritime carriage of nuclear or radioactive material. The second Convention on Emergency Assistance stipulates that a State party may request assistance, whether or not the accident or emergency originates within its territory, jurisdiction or control (art. 2 (1)). This suggests that this Convention also may be applicable in situations resulting from navigational accidents. Both Conventions assign IAEA a focal role in their implementation.

6. Pollution from ships

67. The International Convention for the Prevention of Pollution from Ships, 1973, and the Protocol of 1978 (MARPOL 73/78) now cover nearly 80 per cent of world shipping by virtue of the ratifications of 43 States. Optional annexes III (on harmful substances in packaged form) and V (on garbage) have been ratified by 27 States (41.85 per cent of world tonnage) and annex IV (on sewage) by 25 States (with 36.7 per cent of the tonnage). Ships and tankers carrying noxious liquid

chemicals in bulk are now subject to international control by virtue of the 1985 amendments to MARPOL 73/78, annex II having entered into force on 6 April 1987, along with the amended Codes for ships carrying dangerous chemicals in bulk.

68. Annex II is primarily concerned with the way in which noxious liquid substances are handled, both as cargo into receiving tanks on shore and as wastes into the sea, following tank cleaning and other operations. Carriage requirements are covered by the bulk chemical Codes. Under the amended regulations, it is now possible to make reliable estimates of the size of reception facilities. 36/

7. Ice-covered areas

69. The Convention on the Law of the Sea gives coastal States the right under certain conditions to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of vessel-source pollution in ice-covered areas within the limits of the exclusive economic zone (art. 234). The Helsinki Commission 37/ has under urgent study various possible measures to be initiated with IMO to reduce the risk of accidents that could lead to pollution in ice-covered areas. They would cover safety of navigation, ship-board equipment and structural requirements for oil and chemical tankers and large ships.

8. Regional emergency co-operation

70. There have been great advances in the development of regional anti-pollution arrangements and contingency planning activities at the regional, subregional and national levels. Eight regional protocols or agreements covering emergency co-operation have now been adopted, of which five (Mediterranean, Kuwait Action Plan Region, West and Central Africa, Red Sea and Gulf of Aden, and the South-East Pacific) are in force. The Association of South-East Asian Nations (ASEAN) has also drawn up a contingency plan with respect to offshore installations and coastal refineries. Now that almost all regions have arrangements, a necessary next step, as affirmed by several regional meetings, is development of operational manuals on regional or subregional contingency plans. IMO has in fact already done considerable work on the preparation of manuals on oil spills and spillages of hazardous substances other than oil. 38/ Since in several regions there are many countries who receive no benefit from oil trading but experience a high level of risk from dense tanker traffic, the establishment of subregional stockpiles of pollution fighting equipment has been generally advanced as the best solution. Existing examples are for the Celebes Sea area, supported by the United Nations Development Programme (UNDP), and as planned by the oil industry, for the Strait of Malacca and Singapore.

71. Regional arrangements should now see further development with the entry into force of Amended Protocol I of MARPOL (6 April 1987), which makes the reporting of incidents involving harmful substances compulsory. 39/ These reports have to be made to IMO and to the interested parties. The nearest coastal State must be informed by the vessel involved as well as those ships assisting, including the salvor.

72. Arrangements for international assistance for marine pollution emergencies have also seen major improvements. Submitted for the adoption of the IMO Assembly is an Marine Environment Protection Committee recommendation designed to overcome bureaucratic delays in implementing international assistance. It refers to the problem of timely clearance of material and equipment needed to respond to incidents and the need for Governments to make every effort to facilitate transportation movement of marine pollution response resources during an emergency situation. The European Parliament has created a new budgetary line for intervention in the case of environmental emergencies and has also decided that emergency aid following a serious marine pollution accident would be available to developing countries in accordance with the Lomé Convention and the budget of the Community.

D. Marine science and technology

73. The present period is one of great significance for the future course of international co-operation in the marine sciences. Ever-increasing interest in ocean space and its resources, new ocean-observing technologies and prospects for better understanding of major ocean phenomena and processes and their effects on resources, weather and climate have led to the emergence of long-term, large-scale and multidisciplinary co-operative investigations and ocean-observing systems. These require broad-scale integration and co-ordination of scientific effort, and the involvement of a greater number of States, particularly for regionally based activities. 40/ At the same time, many regional scientific activities are needed to improve knowledge of more localized phenomena and processes. Co-operative activities must also serve the important purpose of expanding States' capabilities in science and technology.

74. The main international ocean science programmes are those relating to living resources and non-living resources, ocean mapping, ocean dynamics and climate, and marine pollution research and monitoring. The ocean service programmes are designed to yield the oceanographic and meteorological data and products necessary for scientific investigation and for the operations of ocean users. New ocean-observing technologies 41/ and improved data collection, storage and exchange and computer modelling capabilities, as well as the general management of marine information are important issues for both the science and services programmes.

1. Ocean science and non-living resources

75. Planning for this jointly sponsored United Nations/Intergovernmental Oceanographic Commission (IOC) programme has made good progress. Highest priority has been given to the coastal zone and to study of sea-level changes due to climatic and/or tectonic processes, since these factors determine the occurrence of offshore minerals. This work will have a natural focus on the West Pacific region, where tectonics not only provide the framework for mineral occurrence but also for geological hazards, earthquakes, volcanic eruptions, tsunamis and landslips. The unravelling of the unusually complex processes in this region will help establish a general principle for the evolution of sedimentary sequences. The ocean science

and non-living resources programme will thus have a close working relationship with the Committee for Co-ordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC). The research and training activities of that organization have also seen considerable development of late and an International Workshop on Geology, Geophysics and Mineral Resources in the South Pacific (planned for 1989) will review current programmes and draw up an eventual research plan for the region.

2. Marine pollution research and monitoring

76. There has been a marked increase in co-operative activities for environmental research and monitoring and in co-ordination as among IOC, IMO, 42/ UNEP, the Food and Agriculture Organization (FAO), IAEA and the United Nations, much of it centring on the work of the various groups of experts under the IOC Global Investigation of Pollution in the Marine Environment (GIPME) and on the work of the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP). Such developments are of considerable significance also for the planning and conduct of co-operative scientific investigations.

77. "Vulnerable areas" are the focus of much attention, as noted in the 1986 report (A/41/742). The Marine Environmental Protection Committee is currently working towards the establishment of an inventory of sea areas beyond the territorial sea that are or will be protected; development, if necessary, of criteria for the selection of particularly sensitive areas; and initiation of protective action, where appropriate. IOC work in the field of biological effects measurements is of particular importance in this area. 43/

78. GESAMP, jointly supported by eight United Nations organizations, advises them on a wide range of matters, including those of direct significance to the regulatory controls on marine pollution (e.g. for MARPOL 73/78). Its current work deals with the review of potentially harmful substances; coastal modelling (concerning wastes discharged and dumped in coastal regions, including shelf areas); and consequences of low-level contamination of the marine environment. This last work includes study of ecological changes due to low persistent concentrations or slow build-up of contaminants that may enter the sea from coastal discharges or come from atmospheric inputs, accidents and dumping; and consideration of what is involved in recovery of damaged ecosystems and habitats. This work and that on coastal modelling is followed closely by the London Dumping Convention Consultative Meetings.

3. Marine applications of space technology

79. These have been developing steadily and the next decade promises to be particularly rich in satellite-derived maritime data and services - for oceanography and a variety of ocean studies, 44/ marine resources surveys, maritime weather forecasting and disaster warning, and for global maritime communications for shipping. 45/

E. The régime for marine scientific research

80. Part XIII of the Convention, in its section 2, establishes the general principles of international co-operation for the promotion of marine scientific research for peaceful purposes and for the creation of favourable conditions for its conduct. The coastal State's exclusive right to regulate marine scientific research conducted within its jurisdiction by foreign researching States and international organizations, and the conditions thereon, are set forth in the following provisions.

81. A coastal State is entitled to require its consent for the carrying out of any maritime scientific research in its exclusive economic zone or on the continental shelf. However, in normal circumstances coastal States shall grant their consent for marine scientific research projects. This consent may be withheld in certain circumstances, e.g. if the research is of direct significance for the exploration and exploitation of natural resources, involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment, or involves the construction, operation or use of artificial islands, installations and structures established for economic purposes.

82. The researching State must comply with certain conditions. For example, it must allow the coastal State to participate or be represented in the marine scientific research project, if requested, or it must provide the coastal state with the final results after the completion of the research.

83. One overall effect of the consent régime is a much greater direct involvement by Governments in the conduct of marine scientific research, which consequently calls for more efficient communication mechanisms and channels. 46/ Another is the rising costs of planning projects to ensure effective participation of developing country personnel and assisting with assessment and interpretation of research results. A 1987 United Nations study (ST/ESA/191) has warned that national and international funding agencies must be prepared to support additional costs of international scientific co-operation.

84. Scientists and administrators from both developed and developing countries have reported some difficulties with the application of the consent rule and the modalities for granting consent. On the one hand some researching States report unreasonable refusal for projects, even where the oceanographic cruise has been officially announced by IOC, and refusal for ships to make ports of call for crew changes, equipment transfer and victualling. On the other hand, some coastal States have reported difficulties over access to full sets of data from approved projects.

85. The problems for multilateral co-operation were quite apparent at the fourteenth IOC Assembly this year. Concerns focused on the planning of major and complex ocean climate research, particularly on the World Ocean Circulation Experiment, where many more ships and more nations will be involved than in the Tropical Ocean component of the World Climate Research Programme (WCRP), requiring a higher degree of co-ordination of major resources and the ability for research vessels to operate in all parts of the ocean. Scientists look to IOC to ensure the

necessary international co-operation and for the strengthening of co-ordination among the many intergovernmental component groups that make up large programmes like the World Climate Research Programme.

86. Researching States at the Assembly emphasized the need to strengthen the role of IOC in facilitating access to marine areas under national jurisdiction by research vessels participating in co-operative programmes, in facilitating transfrontier shipment of equipment, and in making data from those zones available. Various coastal States disagreed: it was not within the competence of IOC to facilitate access by research vessels and such activities remain subject to the Convention's consent régime. 47/

87. This basic question on the role of IOC has been central to the amendment of the relevant paragraph of the IOC statutes, for which a series of consultations was necessary to produce a compromise text. In that process stress was placed on the importance of not establishing two régimes - IOC and United Nations Convention on the Law of the Sea - for the conduct of marine scientific research in zones under national jurisdiction. The relevant provision requires IOC to "promote scientific investigation of the oceans and application of the results thereof for the benefit of all mankind and assist, on request, member States wishing to co-operate to these ends. Activities undertaken under this subparagraph shall be subject, in accordance with international law, to the régime for marine scientific research in zones under national jurisdiction". 48/

88. The large-scale research projects increasingly employ greatly advanced and expensive technologies, particularly satellite-based remote sensing and increasingly sophisticated data management systems, which have the effect of further widening the scientific gap between developed and developing countries. Without a working understanding of the modes and requirements of scientific investigation and analysis, effective implementation of the consent régime becomes more difficult, with implications also for training opportunities and for transfer of technology.

89. Developing country scientists have attributed some of the problems encountered to inadequate attention to the scientific and related technological aspects of marine development and lack of understanding as to the complexity of the marine environment and its resources. They have called for mechanisms promoting an appreciation of the economic value of the marine sciences, among officials and user communities. Certainly, a considerable part of any difficulty with the consent régime has to be attributed to inadequate resources in qualified personnel, facilities and infrastructure. Solutions to such fundamental problems will only be possible with international and regional co-operation, augmented by assistance from developed countries and from the United Nations system.

90. There is need for a better understanding of the consent régime embodied in the Convention in order to promote harmonious application and to benefit both coastal States and the scientific community at large. The Office for Ocean Affairs and the Law of the Sea has already compiled national legislation and regulations on the subject for publication early next year. The next step is to determine actual practice and the true nature of the problems that exist and those that can be

anticipated. The Office will be collaborating closely with IOC in this endeavour, the aim being to promote the necessary co-operation among States and more uniform and consistent application of the Convention through the publication of an explanation in practical terms of the régime for marine scientific research embodied in the Convention.

F. Fisheries management, development and control

91. FAO has in 1987 made its first review since 1977 of the world fisheries situation and outlook and its first examination of the implementation of the Strategy for Fisheries Management and Development adopted by the 1984 World Conference on Fisheries. 49/ In view of the considerable value of these reviews, the Committee on Fisheries has decided that in future they will be done together at regular four-year intervals. 50/

1. World fisheries situation and outlook

92. The consistent growth recorded in recent years in total world catch is encouraging and there is every indication that the 1986 catch may have approached 89.2 million tons, 79 million tons of which comes from the oceans (56 per cent from the Pacific, 36 per cent from the Atlantic, 5 per cent from the Indian Ocean). Developing countries have expanded their share to 52 per cent of the total catch: South American and Asian developing countries reported higher catches; total African landings remain essentially unchanged. The catches in developed countries were back to 1984 levels, after low figures in 1985, due to higher catches by Japan and the USSR. European Economic Community (EEC) countries reported a slight decrease in 1986, while Canada and the United States reported increases. Significant changes have entered the world tuna fishery, where developing countries have increased their catches by more than 40 per cent since 1979 and quadrupled their share in the production of canned tuna. Other statistics of note are that 80 per cent of the catch is used for direct human consumption; 25 per cent is artisanal and 75 per cent industrial; and that one third of the total catch goes to international trade in fish and fishery products, with an increasing share to developing countries ($5 billion out of $16.9 billion).

93. Nevertheless, it should be observed that a great part of the recent increases in production comes almost entirely from catches of shoaling pelagic species (and mostly in the south-east Pacific), which are notoriously subject to fluctuations in abundance and have lower value since they are used for conversion to fish-meal rather than for direct human consumption.

94. The FAO review estimates that a further 20 million tons of fish a year will be needed by the year 2000 and it will be in the developing countries that the growth in demand for food fish will be greater. It concludes that there is little prospect for increasing the catch of demersal species and that better possibilities will lie with small (shoaling) pelagic species. However, their abundance is known to fluctuate dramatically with evidence of interaction with other species so that more research directed at these species is indicated. It is assumed that for some

time world fisheries will continue to be characterized by a strong demand for expensive products of preferred and often fully exploited species, and by continuing difficulties in marketing abundant, low-price fish. While the review concludes that a 20 million ton increase may be theoretically feasible, it emphasizes that only a part of that increase could come from more extensive or intensive fishing effort, and warns that the increases involved may have been largely achieved already. It was noted that the rest - at least half of the projected increase in supply - can be obtained only through management improvement, which must be concerned with the overall economic performance of the fisheries, improved utilization of resources (including the reduction of port-harvest losses); and effective development of aquaculture. Governments will need to strengthen institutions further to meet the complex tasks of fisheries management and deal with the economic and logistical problems of improving utilization.

95. At the meeting of the Committee on Fisheries much emphasis was placed on the critical information and data needs of fisheries management, and on evidence that data provided are not always of an acceptable quality. Fisheries research also needs greater attention, most particularly research on tropical fisheries, including provision of statistical services, which have been deteriorating over a long period.

96. Another important aspect of fishery policy will be to protect and enhance small-scale or artisanal fisheries. These produce over 20 million tons annually for direct consumption. They have the added benefits of being labour-intensive, requiring little capital investment and a low level of mechanization.

97. Over the past 20 years, a combination of expanding export markets for high-value products (notably shrimp and tuna) and national policies (supported by international donor agencies) have led to widespread use of new capital-intensive fishing technologies, which have profoundly affected the welfare of small-scale fishing communities around the world.

98. The key to progress in fisheries development in the developing countries is further promotion of the capabilities of these countries, through training and transfer of technology, and to this end sustained and co-ordinated effort is required on the part of donor agencies and development organizations. The recent UNDP review of fishery development projects is notable in this respect. The review, prompted by concerns with the low rate of success, 51/ found that many failures were attributable to lack of available information and data and to inadequate analysis of resources available for exploitation before projects start and lack of monitoring of the reaction of stocks to increased exploitation. Many problems were also attributed to deterioration in the coverage of reported catch and other statistics. UNDP has concluded that fishery research is receiving less and less priority and that this trend must be reversed. The review also found that a series of co-ordinated special-purpose projects would be preferable to single multi-purpose projects, and that while regional and interregional projects can be most cost-effective, they must concentrate on problems best resolved by joint action.

2. 1984 Strategy for Fisheries Management and Development

99. The first progress report published under this title (COFI/87/3) provides ample evidence that the Strategy has generally proved to be a most persuasive tool for national fishery administrations seeking higher priority from government; a number have either taken direct action to strengthen their fishery administrations or have reformulated fishery plans on the basis of its recommendations. The review also provides plentiful evidence of the serious attempts that are being made to improve management and utilization of resources, and the attention being given to the problem areas - lack of sufficient data for management purposes and problems with establishing effective control.

100. The report makes it abundantly clear that collaboration between developed and developing countries, and among developing countries, is now a factor of very considerable importance in world fisheries. The number and scope of joint ventures and similar co-operative agreements are particularly numerous. While their value is undisputed, they must be negotiated carefully and equitably. There will be many more opportunities for such co-operation, especially among developing countries, on such matters as joint fishing enterprises, product development, resources research, intraregional trade, and particularly training and joint surveillance and fishing control systems. FAO is now acting with UNDP assistance on the Strategy's recommendation for co-operative use of fishery research, training and development vessels.

3. Marine mammals

101. In view of the moratorium on whaling, the thirty-ninth annual meeting of the International Whaling Commission (IWC) again strengthened its limitations on the taking of whales for research purposes. Further criteria and guidelines have been set down for the IWC Scientific Committee to follow when reviewing research permit proposals, and a mechanism has been established whereby the Commission can recommend to member Governments that they revoke current permits and refrain from issuing new ones.

4. Regional fishery developments

102. The seventeenth session of the Committee on Fisheries also provided an important opportunity to review the several problems FAO regional fishery bodies have faced in recent years on, for example, geographical coverage; participation of member States and other entities (e.g. EEC); management functions; scope of recommendations made; and co-operation with other organizations concerned with fisheries (COFI/87/9).

103. Several of these problems are common to the concept and process of regionalism, most particularly that of appropriate geographic coverage and scope of functions and powers. Problems of geography vary from the necessity of having to belong to more than one regional fisheries body to overlapping among bodies, e.g. the Indian Ocean Fisheries Commission (IOFC) and the South Pacific Forum Fisheries

Agency (SPFFA) overlap the original Indo-Pacific Fisheries Commission (IPFC). A different variant of the problem is that experienced by the Fishery Committee for the Eastern Central Atlantic (CECAF). This Committee first thought that it might be possible to introduce a more effective statistical system corresponding to exclusive economic zones in the region, but found too many difficulties with this approach. It has thus opted for a new and more detailed grid to be prepared on the basis of present knowledge of the distribution and migrations of fish stock. 52/

104. Membership of regional bodies was dramatically affected by the Convention on the Law of the Sea: access by non-coastal States became more restrictive, but was often resolved through the creation of subsidiary bodies composed only of coastal States, specifically responsible for management questions in a subregion. FAO considers that broadly speaking the membership situation is satisfactory. No solution has been found, however, for upgrading EEC participation.

105. There are considerable differences in the degree of management competence among fishery bodies and FAO is suggesting that they be adjusted and strengthened, particularly in the IOFC and CECAF regions, where the status of certain stocks, particularly shared and straddling stocks, calls for the adoption of concerted management measures. The most interesting decision-making procedure is that of making potentially binding recommendations, subject to objections. 53/ The General Fisheries Council for the Mediterranean is the only FAO body to use it (IPFC also has the ability), but the others would require reconstitution.

106. Improved co-operation with other organizations (and bilateral agencies) is of some concern to FAO. Not only have the number of international organizations concerned exclusively with fisheries increased, but many regional economic development organizations have also intensified efforts in the fisheries field (e.g. ASEAN and the Caribbean Community). FAO notes that while they do not provide an adequate geographical framework for co-operation in management, they can play an important role in the development process.

107. Several of the above issues are again illustrated in recent regional developments, along with persistent problems in obtaining the necessary information and data, in building fishery research capability and ensuring compliance. Also illustrated are the variations in management policy.

5. Eastern central Atlantic

108. The tenth session of CECAF, held in December 1986, was notable in several areas: on the question of appropriate geographical coverage, bilateral fishery agreements, and management measures and enforcement.

109. The Committee noted with concern that some coastal States were having considerable difficulties in obtaining statistics on foreign fishing and urged those having bilateral agreements to ensure compliance with clauses requiring timely declaration of reliable statistics. Others were requested to seek improved statistical data from partners and to intensify scientific co-operation with them. The Committee also called for a balance to be struck between the presence of

foreign fleets and development of national capacity, as well as protection of artisanal fisheries from unfavourable competition with industrial fisheries.

110. CECAF has again endorsed the management approach recommended in 1985, when it advised that direct regulation of fishing efforts through a limitation of fishing capacity was more appropriate for rational management of national stocks than indirect limitation through total allowable catches; and that management of shared stocks called not only for the establishment of total allowable catches and catch allocation schemes among the countries concerned but a direct or concerted limitation of the fishing effort of each country.

111. The Sub-Regional Commission of CECAF, comprising Cape Verde, the Gambia, Guinea-Bissau, Mauritania and Senegal, is reviewing experience in other parts of the world on harmonization of legal controls and enforcement measures. For this, FAO has provided a subregional compendium of fisheries legislation, a review of co-operative measures in surveillance and enforcement in the south Pacific and the European Community and a paper on maritime hot pursuit as it affects fisheries. 54/

6. Western central Atlantic

112. A review of articles 63 and 64 of the Convention on the Law of the Sea by a Western Central Atlantic Fisheries Commission Expert Consultation has concluded that the Convention on the Law of the Sea annex I list of highly migratory species did not include some species of importance to the Lesser Antilles region. For management purposes, these stocks were distinguished as follows: stocks occurring within a single exclusive economic zone; transboundary stocks; stocks migrating within the archipelago; stocks migrating only partially within the exclusive economic zone. The Committee has recognized that the distribution ranges and migration of resources exploited in common determine the number of States and territories that need to participate in any discussion on their rational management. Concrete management measures for shared resources will be defined on this basis.

7. South-west Atlantic

113. Fishing efforts in the area have built up rapidly during the 1980s, as have the annual catch and the number of countries and vessels involved. The main fishing nations, by volume of their catches, are: Argentina, Poland, Japan, Uruguay, USSR, Spain, Bulgaria, German Democratic Republic, Republic of Korea and, since 1985, Cuba. With this rapid development came concerns as to potential over-exploitation and foreseeable difficulties over conservation and management. FAO therefore decided in 1985 to carry out an assessment of the state of the fish stocks in the area and that study is now available. 55/

114. The main offshore fisheries include southern blue whiting, mostly fished by Poland and the Soviet Union, and the short finned squid. fished by most nations operating in the area. 56/ The assessments of these depended primarily on the detailed information and data that were supplied by Poland and Japan. No detailed fishing effort data were provided by any of the other offshore fishing nations in

the area. However, Argentina provided significant information on fisheries in the south-west Atlantic in general and the surveillance data provided by the United Kingdom gave good indications of the total fishing effort around the Falkland Islands (Malvinas). The study finds that southern blue whiting seem to be lightly to moderately exploited and do not call for management measures for the time being. In the case of the shortfin squid fishery, it is likely that the increased fishing effort in 1986 has created an overfishing situation. The study notes also that a variable proportion of the stock is distributed and exploited quite heavily (up to 50 per cent beyond the 200-mile limit). Adequate management clearly calls for good and reliable information on a continuous basis and for some kind of collaboration among the States operating in the area. The FAO study therefore calls attention to article 63 (2) of the Convention.

115. Very little is currently known about the other main offshore fishery for the common squid, but, based on the results of past surveys and a comparison with estimated current catches and some other sparse information, there is a high probability for this stock to become over-exploited.

116. The Committee on Fisheries has recognized the importance of the fisheries in the area (Statistical Area 41) and FAO's unique ability, under the present circumstances, to collate and analyse fisheries data (COFI report CL 91/7). FAO will therefore continue to monitor the situation, within its mandate as a specialized technical agency, and will update the study as appropriate. Countries fishing in the area were invited to co-operate with FAO particularly through the provision of all catch and effort data and biological information on the resources.

8. Indian Ocean

117. The main fishery issue is improvement of the present institutional framework for managing the tuna stocks.

118. It is to be noted that the Convention on the Law of the Sea has dramatically changed the nature of the responsibilities and powers of the existing fishery bodies involved with tuna (IOFC, IPFC, ICCAT, the Inter-America Tropical Tuna Commission (IATTC), the South Pacific Commmission (SPC) and SPFFA) 57/. FAO is concerned that relatively little attention is presently being given to new assessments of tuna stocks and called attention to the extreme difficulties in the last few years for tuna scientists to gain access to detailed catch and effort statistics for stock assessments (COFI 87/INF.4).

119. France, Japan, Seychelles, Sri Lanka and Thailand have begun a detailed review of the options available for long-term institutional arrangements for Indian Ocean tuna and have agreed that the future arrangement should cover two FAO Statistical Areas (51 and 57). No final agreement was reached on membership: some wished to restrict it to coastal States and States whose nationals fish for tuna in the region; others called additionally for the participation of countries that could contribute to scientific knowledge of the stocks. Most agreed that the new arrangements should provide for full management functions and the power to make potentially binding recommendations. The developing coastal States strongly emphasized the need for the new body to deal also with development aspects.

9. South-west Pacific

120. The negotiations that began in 1984 on a regional licensing agreement under which United States tuna fishermen could fish in the region were concluded with a Treaty between the United States and 16 South Pacific countries on 2 April 1987. It will enter into force when ratified by the United States and 10 States, three of which are specifically named (Papua New Guinea, Kiribati and Federal States of Micronesia). So far, Australia, Fiji, Papua New Guinea, New Zealand and Nauru have ratified. The Treaty sets out terms and conditions under which United States flag fishing vessels will be able to fish in some 10 million square miles of exclusive economic zones and high sea areas enclosed by the zones in the region. The tuna industry will pay annual licence fees and provide technical assistance; under a related agreement with SPFFA, the United States Government will provide economic support funds for five years to parties to the Treaty.

121. The Treaty is also of considerable interest in that it represents one of the first attempts to provide a practical working mechanism for the concept of flag State responsibility for compliance control. The United States Government would undertake to enforce the provisions of the agreement against its nationals and fishing vessels as a supplement to the enforcement measures taken by the coastal States themselves. Its penalty levels would be comparable to those in force for foreign vessels operating in the United States exclusive economic zone. The Treaty also contains specific provisions recognizing SPFFA's regional register of foreign fishing vessels.

122. Negotiations for this Treaty also brought a related matter into sharper focus: accurate charting of maritime boundaries. It has been emphasized that in any unilateral claim or bilateral boundary agreement enough technical information should be provided so that both claimant and user States will know where the limits are. Clear and unambiguous definitions for the various limits in the Treaty are given in an annex describing areas closed to United States fishing off the coasts of the island States. Charts will be developed for use by the industry once the Treaty enters into force.

10. Eastern Pacific

123. The new Eastern Pacific Tuna Fishing Agreement will establish a regional licensing régime. The Treaty has been ratified so far by Costa Rica, Honduras and the United States. Two additional coastal State ratifications are necessary for its entry into force. Also with a view to establishing a tuna fishing régime in the Eastern Pacific Ocean, a draft treaty was concluded in Guatemala in August 1987. This draft treaty is based on the new law of the sea and fully upholds the sovereign rights of coastal States over the living resources in the exclusive economic zones. The draft treaty will be considered at a conference to be held in Mexico in 1988 and will serve as an instrument in the establishment of a new institution concerning tuna fishing and conservation in the eastern Pacific. The following countries will participate in this conference: Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama and Peru.

11. South-East Asia

124. The Indo-Pacific Fisheries Commission has concluded that severe over-fishing is prevalent throughout the region. 58/ Catches of commercially valuable demersal fisheries have dropped sharply and some species have disappeared, and it is feared that the regional demand for fish will greatly exceed potential supplies, leading to increased prices and thus even greater pressures on fisheries. Efficient management measures become all the more critical. The Commission pinpointed the absence of property rights as the fundamental cause of waste and resulting conflicts and called for exclusive user rights, particularly for artisanal fishermen, and strong management authority. Priority should be given to investment projects and programmes that facilitate better management.

G. Developments in regional co-operation

125. The urgent concern of States to implement the Convention and to benefit from the resources under their jurisdiction is highlighted by the activities of the States not only at national levels but also at regional and subregional levels. They underscore the need for assistance to States at both national and regional levels. In this respect the following recent initiatives should be noted: a subregional Symposium, co-sponsored by Côte d'Ivoire and Cameroon; a subregional workshop under the auspices of the Organization of Eastern Caribbean States; the first Indian Ocean Marine Affairs Conference; and the Conference of the South-East Asian Project on Ocean Law and Policy.

126. The Abidjan symposium held in June 1987 requested the Office for Ocean Affairs and the Law of the Sea to give priority assistance to the States of the West and Central African regions to implement the Convention on the Law of the Sea and to introduce the marine dimension in their developmental process. It also asked for United Nations assistance in organizing a training course on the development of offshore hard minerals in the region.

1. Organization of Eastern Caribbean States

127. In September 1987, OECS held a workshop on certain maritime matters as they affected the region. The workshop considered the application to the OECS subregion of the relevant provisions of the Convention dealing with the determination of baselines, the status of islands and insular formations, and the delimitation of maritime boundaries between States with adjacent and opposite coasts. The workshop discussed several issues relating to boundary-making in the Caribbean as a whole, and in particular, with reference to the subregion. It was noted that among the important factors affecting delimitation in the OECS region are the proximity of States and dependencies; the presence of islands, rocks, reefs and sandbanks; the presence of dependent territories of metropolitan Powers; and the distribution of the natural resource potential of the region.

2. Indian Ocean Marine Affairs Co-operation

128. The Indian Ocean Marine Affairs Co-operation Conference (IOMAC) held in January 1987 was a major undertaking involving some 34 countries. Its basic objective was to increase awareness of the potential for co-operation among States of the region and for co-operation with the United Nations system as well as the developed countries. The Conference set down the framework for co-operation and drew up a programme and plan of action that emphasizes pooling and sharing of scarce scientific and technical facilities and expertise, exchange and centralization of information and data and general improvement of communications at the regional level to optimize resources and avoid duplication of effort. It furthermore institutionalized co-operation in the establishment of an IOMAC secretariat and a 17-member Standing Committee. That group has already set some policy priorities: initiation and rapid development of a marine affairs information network (using national focal points); organization of inventories of national facilities and capabilities; and identification of training needs. International organizations are asked to liaise with IOMAC in building the necessary information network.

3. The South-East Asian Project on Ocean Law, Policy and Management 59/

129. SEAPOL has concentrated on the processes and problems associated with implementation of the Convention on the Law of the Sea in the region and particularly on boundary-making, conflict avoidance and dispute settlement, transit (in environmental and strategic terms), environmental protection and fishery management and conservation. The SEAPOL conference held in April 1987 also discussed the future for regional co-operation in ocean development and resource management and made a number of recommendations of considerable significance.

130. International organizations were called on to assist national legislative activity and other tasks of implementation of the Convention. The States themselves must seek out all opportunities for participation in international research, training, information and technical assistance programmes in the various ocean sectors, particularly where marine environmental, research and technological matters are concerned. Stress in general was placed on the general obligations of States to consult and give notice to neighbouring States, other interested States and competent international organizations, as prescribed in various provisions of the Convention, and seek out all opportunities for collaborative activities. Emphasis was also placed on the need to avoid unduly strict interpretation of coastal States' rights, particularly where conflicts with other States might ensue, and to seek bilateral and regional co-operative solutions wherever possible.

131. The general approach to regionalism was to begin with a focus on ASEAN. The conference readily accepted the notion that the need for bilateral treaty making in the region diminishes with the development of regional co-operation. The first step was considered to be a consultative machinery to designate areas and issues under the Convention that lend themselves to regional co-operation.

V. THE PREPARATORY COMMISSION FOR THE INTERNATIONAL SEA-BED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

132. The Preparatory Commission met twice during 1987. It held the fifth session at Kingston from 30 March to 16 April 1987, and a meeting in New York from 27 July to 21 August 1987. It has decided to hold its sixth session at Kingston from 14 March to 8 April 1988. Provision has been made for servicing a summer meeting of the Preparatory Commission in 1988 in New York.

A. The plenary

1. The implementation of resolution II

133. Following the Understanding of 5 September 1986 (LOS/PCN/L.41/Rev.1), it had been anticipated that the four applicants, namely France, India, Japan and the Soviet Union, would have submitted revised applications as pioneer investors, which would have been considered and registered during the fifth session of the Preparatory Commission. However, in the light of inter-sessional consultations that had taken place, the four applicants did not submit their revised applications and requested an extension of the deadline for their submission.

134. From the information provided to the Preparatory Commission by the first group of applicants and the potential applicants, the Commission was satisfied that substantial progress had been made and further time was necessary to complete the discussions that had begun during the inter-sessional period. Accordingly, the Preparatory Commission decided to extend the time for the submission of revised applications by the four applicants. These applications were to be submitted not later than one week prior to the summer meeting.

135. It was agreed that, unless the Preparatory Commission decided otherwise, the Group of Technical Experts, established in accordance with the Understanding of 5 September 1986, would convene at the beginning of the second week of the summer meeting in order to examine the applications submitted for registration and submit a report to the General Committee, which would also be convened during the summer meeting. The General Committee acts as the executive body on behalf of the Preparatory Commission for the purpose of registration. It was also agreed that India, which had no conflicts with respect to overlapping claims, could be registered separately, but that France, Japan and the Soviet Union were to be considered and registered simultaneously.

136. Following the Understanding of 10 April 1987 (LOS/PCN/L.43/Rev.1), the Group of Technical Experts was convened and began its meeting on 3 August 1987. However, in the light of certain developments, the Group was unable to examine the applications of all four applicants and in accordance with the Understanding of 10 April 1987, it began examining the revised application of India.

137. During the summer meeting the Preparatory Commission was informed that the negotiations aimed at resolving all pending practical problems, which had been in

progress since the last session of the Preparatory Commission, had been successfully concluded (LOS/PCN/L.49). The Secretary-General hailed this as the most important development since the adoption of the Convention in 1982. The first group of applicants and the potential applicants reported that a comprehensive settlement of practical problems had been achieved (LOS/PCN/90 and LOS/PCN/91). The outcome ensured that all applications submitted would now be considered by the Group and the General Committee with a view to their registration. However, because of the short lapse of time since the negotiations were concluded and the need for adjustment to certain applications, the date of consideration of the applications of France, Japan and the Soviet Union had to be postponed.

138. Accordingly, the next meeting of the Group of Technical Experts would be convened from 23 November to 4 December 1987. It would be followed by a meeting of the General Committee from 7 to 18 December 1987 in order to consider the revised applications of France, Japan and the Soviet Union as pioneer investors under resolution II.

Registration of India

139. The agreement on the resolution of conflicts with respect to overlapping claims was followed by a historic development in the Preparatory Commission when it decided to register India as the first pioneer investor in the international sea-bed area (LOS/PCN/94) on the basis of a report of the Group of Technical Experts (LOS/PCN/BUR/R.1). In accordance with resolution II of the Third United Nations Conference on the Law of the Sea, India has been allocated an area of 150,000 square kilometres in the south-central Indian Ocean basin. In this area India has the exclusive right to carry out activities leading up to the exploitation of polymetallic nodules. At the same time the Commission reserved from the Indian application an area of 150,000 square kilometres of equal estimated commercial value for future development by the International Sea-Bed Authority.

140. It was the general opinion that the registration of India as a pioneer investor represented a milestone in the evolution of the law of the sea. It was also the general view that the event not only marked the beginning of the implementation of the pioneer system established under resolution II, but in fact gave concrete meaning to the principle of the common heritage of mankind embodied in the 1982 Convention (LOS/PCN/L.54/Rev.1).

Other matters

141. At the 37th meeting of the Commission, the plenary elected by acclamation the nomination of the African Group, Mr. José Luis Jesus of the delegation of Cape Verde, as Chairman of the Preparatory Commission to succeed Mr. Joseph S. Warioba, Prime Minister of the United Republic of Tanzania.

142. At the 38th meeting of the plenary, the Commission commemorated the twentieth anniversary of the initiative of Malta relating to the reservation exclusively for peaceful purposes of the sea-bed beyond national jurisdiction and the use of its resources in the interest of mankind.

2. The preparation of the rules, regulations and procedures relating to the organs of the Authority

143. The plenary continued the examination of the draft rules of procedure for the Economic Planning Commission and completed the first reading of these rules. It then took up the examination of the revised rules of procedure of the Council and completed the second reading of these rules. On the second reading several of the draft rules were provisionally approved.

144. There was a lengthy debate on the proposals of the draft rules of procedure of the Council to establish a Finance Committee. There was general agreement on the advisory nature of the body and the qualifications of the members of this Committee. However, certain issues needed further discussion, such as whether the criteria for membership of the Committee should be based on the principle of equitable geographical distribution and special interests or only on the principle of equal geographical distribution, and whether the major contributors should constitute a special category.

145. Throughout its work on the draft rules of procedure of the various organs of the Authority, there were certain issues that were left pending. They concerned in particular financial and budgetary matters, decision-making, majorities required for elections, status of observers and subsidiary organs.

146. At the sixth session, the plenary will commence with a second reading of the draft rules of procedure of the Legal and Technical Commission and of the Economic Planning Commission. The plenary will then return to the pending draft rules of procedure of the Council.

B. Special Commission 1

147. The mandate of the Special Commission is to undertake studies on the problems that would be encountered by the developing land-based producer States likely to be most seriously affected by sea-bed mineral production. The Special Commission continued its discussion on possible remedial measures for such developing land-based producer States.

148. The view was expressed that there was no need for the Authority to devise any new remedial measures. The need for such measures may not arise since the very factors that would encourage commercial sea-bed mining in the future, for example high metal prices, would at the same time be helpful to land-based mining. Were the need to arise, existing economic measures of international, multilateral, regional and subregional organizations may be adequate to cope with the problem of developing land-based producers adversely affected by sea-bed mineral production. On the other hand, the view was maintained that it was necessary that the Authority adopt its own measures.

149. In the event that the Authority adopted its own measures, views diverged as to whether measures of economic adjustment assistance or a system of compensation would be the most effective way of dealing with the problems. Further, if a

system of compensation was chosen it did not necessarily entail the establishment of a compensation fund. The questions were raised as to whether a system of compensation or compensation fund should be of a global, multilateral or bilateral nature. Divergent views were also expressed on the sources for financing of such a fund: whether part of the profit of the Enterprise would be the only source or whether the sea-bed miners should also contribute from their profits. There was general agreement, however, that developing land-based producers seriously affected by deep sea-bed mining should be provided with some form of assistance.

150. At its meeting in New York, the Special Commission concentrated mainly on the issue of subsidization in relation to deep sea-bed mining. Some delegations were of the opinion that efficient land-based producers would be able to compete with sea-bed production as long as the latter was a commercial unsubsidized operation, and that the real threat to competitive land-based producers was subsidized sea-bed mining. These delegations suggested that an anti-subsidization recommendation should be an important element in the recommendations of the Special Commission to the Authority with regard to remedial measures for the problems of developing land-based producer States adversely affected by sea-bed production. Other delegations raised a number of questions about the applicability and effectiveness of the General Agreement on Tarriffs and Trade (GATT)-type anti-subsidy provisions in relation to sea-bed mining. There were also questions as to whether any practical, realistic and effective anti-subsidy measures could be formulated at all. Some delegations were of the view that even if there was no subsidization of sea-bed mining, when sea-bed mining occurs, the very fact that there is a new source of supply of minerals would result in adverse effects on developing land-based producers; subsidization of sea-bed mining would merely aggravate the situation. These issues will continue to be deliberated by the Special Commission.

C. Special Commission 2

151. The Special Commission is charged with preparing for the establishment of the Enterprise, the operational arm of the Authority. It is also required under resolution II of the Conference to take the necessary measures to enable the Enterprise to keep pace with States and other entities that will be engaged in deep sea-bed mining. In particular, under the pioneer régime registered pioneer investors are required, inter alia, to provide training for the personnel of the Enterprise. At its session at Kingston, the Commission discussed in some detail the question of training, in particular, issues relating to timing, types of training and the costs of such training.

152. With regard to the question of when training should begin, views were expressed that the commencement of training should be limited to the viability of deep sea-bed mining. It was, however, argued that, in view of the importance of training for the participation of developing countries in all aspects of deep sea-bed mining, such a link should not be established, and that the earlier training could begin, the better it would be in order to keep pace with sea-bed mining development. Divergent views were held on the question of costs. On the one hand it was held that the costs of such training should be borne by the

pioneer investors. The contrary view was that the costs should not be borne by the pioneer investors alone, but should be reimbursable by the Authority. It was agreed that an ad hoc working group on training would be established to formulate a training programme.

153. At its meeting in New York, the Special Commission discussed the administrative structure of the Enterprise, including the question of the establishment of an initial "nucleus" Enterprise. The description given in the Secretariat paper (LOS/PCN/SCN.2/WP.12) of the kind of monitoring, evaluating and continued preparatory functions that would need to be performed in the pre-feasibility period was generally accepted. There was general agreement on the necessity of keeping personnel and costs to a minimum.

154. With the registration of the first group of applicants the work of the Special Commission will now enter a more concrete phase. It would have to turn its attention to the implementation of paragraph 12 of resolution II. As a consequence, the programme of work for the sixth session will be the following: formulation and establishment of a training programme; structure and organization of the Enterprise; and the implementation of paragraph 12 of resolution II with respect to exploration and transfer of technology.

D. Special Commission 3

155. The preparation of the rules, regulations and procedures for the exploration and exploitation of the deep sea-bed falls under the mandate of Special Commission 3. The Commission began a detailed consideration of draft articles dealing with the financial terms of a mining contract, which are viewed as being crucial to the successful undertaking of deep sea-bed mining. The articles considered deal with the annual fixed fee, the choice of system of financial contribution, production charges, the method of assessment of quantity of processed metals from nodules, the attribution of average price to such metals, notification of market value and payment of production charges, the Authority's share of attributable net proceeds and the determination of first and second periods of commercial production for graduated taxation.

156. During its meeting in New York the Commission continued its discussion of the draft articles. In particular it examined the provisions relating to the issue of interest, the recovery of the contractor's development, the calculation and payment of the Authority's share of attributable net proceeds, accounting principles, payment to the Authority, the selection of accountants and the settlement of disputes.

157. During the discussion of these draft articles and the various amendments, many comments were made, amendments submitted and suggestions offered.

158. The Special Commission then had a general discussion on document LOS/PCN/SCN/3/WP.6/Add.3 (Draft Regulations on Financial Incentives) introduced by the Secretariat at the 60th meeting of the Special Commission.

159. Views were expressed that financial incentives should be considered as a component of the financial rules. It was pointed out that the financial terms of contract created an unduly onerous burden for the contractor and that the provisions in articles 88 and 89 of document LOS/PCN/SCN.3/WP.6/Add.3 did not provide an adequate solution. What was required before detailed incentives were discussed were certain mechanisms and an institutional framework based on stable and clear criteria and non-discriminatory procedures under which uniform and predetermined incentives would be provided. It was suggested that the provision of such incentives should not be left to the discretion of the Authority but should be provided automatically under specific conditions clearly detailed in advance.

160. Another view was that the provision of financial incentives could not be viewed as creating exceptions to the financial terms of contract. It was maintained that the provisions of article 13 of annex III of the Convention must prevail and that the availability of incentives should not become a general rule but only be awarded at the discretion of the Authority. It was also pointed out that it was important to consider the provision of financial incentives in terms of the revenues of the Authority.

161. It was suggested that the provision of such incentives should not amount to subsidizing sea-bed mining especially to the detriment of land-based mining.

162. It was further suggested that a higher degree of security for the contractor could be viewed as a financial incentive. Other additional incentives suggested were, inter alia, a partial or full refund of the annual fixed fee paid by the contractor where exploration did not lead to exploitation of a mine site and the right of the contractor to change his choice of making his financial contribution to the Authority, i.e. by either paying a production charge only or paying a combination of the production charge and a share of net proceeds.

163. Throughout the debate, a view was maintained that the provisions of the Convention should not be altered in the development of the rules and regulations for deep sea-bed mining. On the other hand, it was felt that the Commission should not be precluded from building on the provisions of the Convention. This raises the issue of the extent to which modifications can be made to the provisions of the Convention in the drafting of the mining code.

E. Special Commission 4

164. This Commission is preparing for the establishment of the International Tribunal for the Law of the Sea. The Special Commission has completed its second round of discussions on the draft Rules of the Tribunal, with the exception of one outstanding matter contained in an informal suggestion concerning procedures for the prompt release of vessels and crews, which should be completed early in the sixth session. The thrust of the discussions have been reflected in the revision of the Rules and the compromise proposals presented by the Secretariat at the request of the Special Commission There has been widespread agreement within the Special Commission on virtually all issues relating to the Rules. The Secretariat

has been requested to prepare a final revision of the draft Rules and it is expected that this revision would provide a broadly acceptable proposal for the Rules of the Tribunal.

165. The Special Commission is now in the process of considering the requirements for a headquarters agreement between the Tribunal and the host country. The discussion is based on a draft headquarters agreement prepared by the Secretariat. On this subject as well, a most constructive spirit has prevailed and the discussions have progressed expeditiously to complete the first half of the draft. The second part of this draft will be presented by the Secretariat before the next session and it is anticipated that the Special Commission can conclude a first review of the subject by the end of the sixth session.

166. There are several other items on the agenda of Special Commission 4, including the drafting of a protocol or agreement dealing with the subject of privileges and immunities of the Tribunal, its functionaries, officials and representatives of parties before it. For this purpose also, the Secretariat is expected to present a working paper for the sixth session.

167. As mandated by the Special Commission, the Chairman's consultations on the matters relating to the seat of the Tribunal are proceeding, and it is hoped that a generally acceptable solution to this problem will be found. The problem arises from the fact that the host country identified in the Convention (Federal Republic of Germany) has not signed the Convention, nor has it acceded to it. An understanding was reached at the time when the host country was chosen that required it to be a party to the Convention.

PART TWO

ACTIVITIES OF THE OFFICE OF THE SPECIAL REPRESENTATIVE

I. INTRODUCTION

168. The Office of the Special Representative of the Secretary-General for the Law of the Sea is presently entrusted with the responsibility of discharging the major programme on marine affairs (chap. 25 of the medium-term plan for the period 1984-1989), comprising programme 1 (Law of the sea affairs) and programme 2 (Economic and technical aspects of marine affairs), with most aspects of the work carried out by the Secretariat in the field of marine affairs being consolidated in the Office of the Special Representative. The Office has been renamed the Office for Ocean Affairs and the Law of the Sea. The Office will thus implement a programme that combines the ongoing activities of the Office of the Special Representative of the Secretary-General for the Law of the Sea with most of those previously carried out by the former Ocean Economics and Technology Branch of the Department of International Economic and Social Affairs, as well as certain activities formerly carried out by the Sea and Ocean Affairs Section of the Department of Political and Security Council Affairs. This was one of the structural reforms effected by the Secretary-General 64/ and reported to the Committee for Programme and Co-ordination, at its resumed twenty-seventh session in September 1987, which for this purpose has endorsed a consolidated programme budget for the Office (A/C.5/42/2/Rev.1).

169. In the field of marine affairs, the implications of the consolidation are that there will be a continuation of the ongoing responsibilities of the Office of the Special Representative of the Secretary-General for the Law of the Sea, which arise as a consequence of the adoption of the 1982 Convention establishing a comprehensive régime governing all uses of the oceans and their resources. These include such activities as reporting on developments relating to the Convention, the provision of information, advice and assistance to States, international and regional organizations, academic institutions, scholars and others on the legal, economic and political aspects of the Convention. It also involves the provision of advice and assistance to States, especially developing ones, on overall marine policy and management, the institutional implications thereof and the adaptation and adoption of national laws and regulations and the practical exercise of their rights and fulfilment of obligations in conformity with the Convention.

170. The Office also facilitates widespread acceptance of the new ocean régime, and monitors and reports on developments relating to the régime for the oceans at the international, regional and national levels. It also provides a focal point within the United Nations system for ocean-related activities. It fosters co-operation between offices and departments of the United Nations, its agencies and bodies in promoting a consistent approach towards the implementation of the Convention.

171. The Office also continues to provide secretariat services for the Preparatory Commission for the International Sea-Bed Authority and for the International

Tribunal for the Law of the Sea by providing the whole range of substantive and administrative support to the negotiations of this intergovernmental body (consisting of 159 members and 10 observers), which is preparing for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea. In its work programme the Office places special emphasis on the services of the Preparatory Commission and maintains an office at Kingston, Jamaica, to facilitate the servicing of the Commission.

172. The Office monitors developments relating to ocean affairs and law of the sea and, with the assistance of the material and data provided by the agencies and bodies of the United Nations, analyses these developments and submits the annual report of the Secretary-General on the developments to the General Assembly in accordance with its decision.

173. These functions will be supplemented by the work previously carried out by the former Ocean Economics and Technology Branch of the Department of International Economic and Social Affairs (DIESA) in the areas of marine minerals (sea-bed and near-shore), coastal area and exclusive economic zone policy-making, planning and management, marine and coastal technology, marine information and data management and dissemination, and substantive support for technical co-operation will be carried out by the Office for Ocean Affairs and the Law of the Sea. This Office will thus also be responsible for the United Nations contribution to such joint inter-agency programmes and activities as Ocean Science in Relation to Non-Living Resources; the Aquatic Sciences and Fisheries Information System; the International Oceanographic Data Exchange; the Training, Education and Mutual Assistance in the Marine Sciences; the Group of Experts on Scientific Aspects of Marine Pollution; and the development of the Long-term and Expanded Programme of Oceanic Exploration and Research. The Office will also represent the Secretary-General at sessions of the Inter-Secretariat Committee on Scientific Programmes Relating to Oceanography. In addition, responsibility for factual reporting on developments in the sea and ocean affairs has been transferred to this Office from the Department for Political and Security Council Affairs.

II. ASSISTANCE AND SPECIAL STUDIES

174. The process of ratification of the Convention has continued and currently 34 instruments of ratification have been deposited. During the period under review, the Office of the Special Representative has been requested to provide information, advice and assistance to facilitate the ratification process by providing clarification regarding provisions of the Convention and the interrelationship between such provisions as they affect the rights and duties of States. States, national agencies and institutions as well as intergovermental and non-governmental organizations have also submitted numerous requests for different types of detailed information on matters relating to the régime for the oceans.

175. The developmental process in many countries is witnessing the greater incorporation of the marine sector in their economies. This process is being undertaken at both the national and regional levels, thereby stimulating

additional marine-related activities. The Office has been requested to participate in this process by preparing and presenting studies and reports on marine affairs as well as by participating in several meetings of intergovernmental and non-governmental organizations. Among such meetings were: the South Pacific Forum's Management Course for Government Officials (Kiribati); the Asian-African Legal Consultative Committee (Bangkok); the Indian Ocean Marine Affairs Conference (Colombo); the International Ocean Institute Management Course (Arusha, Tanzania); the Institute for Documentation on Marine Research and Studies (IDREM) (Abidjan); the Maritime Delimitation Workshop for Officials of the Organization of the Eastern Caribbean States (Saint Lucia); South-East Asian Project on Ocean Law, Policy and Management (Bangkok); Pacem in Maribus XV (Malta); the Seminar Relating to Exploration and Exploitation of Mineral Resources of the Sea-Bed: Legal, Technical and Environmental Aspects (Cartagena, Colombia); and the Committee for Co-ordination for Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (Lae, Papua New Guinea).

176. At the same time special emphasis was also placed on the preparation of studies dealing with sea-bed mining and preparations for the Authority and the Tribunal for the Preparatory Commission.

III. CO-OPERATION WITHIN THE UNITED NATIONS SYSTEM

177. Previous resolutions on the law of the sea adopted by the General Assembly, including resolution 41/34, have recognized "that the United Nations Convention on the Law of the Sea encompasses all uses and resources of the sea and that all related activities within the United Nations system need to be implemented in a manner consistent with it". Consequently, the Office has continued to co-operate with and to assist in the work of United Nations agencies and bodies, other departments of the United Nations, and intergovernmental bodies involved in ocean-related matters. In particular the Office will continue to co-operate with the Department of International Economic and Social Affairs on matters of mutual interest, including the preparation of reports to the Economic and Social Council, as appropriate. A special effort has been made to undertake activities on global, regional and subregional bases, and to maintain and strengthen the established working relationship, including joint activities as appropriate, with organizations within the United Nations system, such as ICAO, IMO, UNESCO/IOC, FAO, ILO, the United Nations Conference on Trade and Development (UNCTAD) and UNEP. Concurrently, the Office has co-operated and assisted the regional commissions of the United Nations in their marine affairs activities and programmes. As in previous years, the regional commissions, especially those from the Asian, African and Latin American regions, have requested that assistance and information be provided by the Office of the Special Representative. The Office will continue to co-operate with regional commissions in the convening of regional groups of experts on marine survey and technology. The Office has also participated in the work of several specialized agencies and has been represented at meetings when appropriate. On the other hand, it continues to receive valuable assistance and co-operation from all the organizations within the United Nations system.

IV. SERVICING THE PREPARATORY COMMISSION

178. The Preparatory Commission continued its deliberations on the establishment of the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. As in previous years, the General Assembly, by its resolution 41/34 requested the Secretary-General to place special emphasis on the work of the Preparatory Commission. The Office continued to provide the integrated servicing required by the Commission to enable it to undertake the activities it is mandated. In providing such service, the Secretariat continued to prepare studies and working papers dealing with various matters under consideration by the plenary of the Commission and its four Special Commissions. These working papers and studies included: revised rules of procedure of the Council; revised draft Rules of Procedure of the Legal and Technical Commission; revised draft Rules of Procedure of the Economic Planning Commission; system of compensation and/or a compensation fund; main elements of a training programme; a nucleus Enterprise; draft Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area (Draft Regulations on Financial Incentives); draft Rules for the International Tribunal for the Law of the Sea; and draft headquarters agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany.

V. LAW OF THE SEA INFORMATION SYSTEM

179. During the past year, the Office has proceeded with the further development of its computerized Law of the Sea Information System (LOSIS). The system is composed of a group of data bases containing information relating to the law of the sea and related issues, which are updated on a continuing basis.

180. One of these data bases, the Country Marine Profile Data Base, contains 98 categories of information for each of more than 160 countries and 80 additional entities (e.g. islands, dependent territories, etc.). The information is of an economic or demographic nature (e.g. GNP, population, fishery import/export, shipping tonnage, etc.), geographical data (e.g. land area, length of coastline, area of the exclusive economic zone), limits of national jurisdiction (breadth of the territorial sea, contiguous zone, exclusive economic zone, fishery zone and the continental shelf), membership in regional or interest groups or in specialized agencies with ocean-related activities (e.g. IMO, FAO, IOC/UNESCO, the International Hydrographic Organization (IHO) and the International Maritime Satellite), and United Nations regional commission membership. This data base also includes current information on the position of each State regarding the Convention on the Law of the Sea, such as signature of the Final Act, signature of the Convention, ratifications and declarations. The data base has the ability to retrieve information by specific country, region, affiliate groups or relevant organizations and extract the pertinent data from a chosen subset of the 98 categories available.

181. The National Marine Legislation Data Base (LEGISLAT) has been expanded since its inception last year from 1,060 to over 1,440 individual national laws and regulations entries.

182. The development of the data base of Sea-Bed Committee documents referred to in the last report to the General Assembly is continuing and will allow, when completed, retrieval of references to that body of documentation by (a) subject-matter, listing sponsors and associated documents submitted, as well as statements, by country, made on the subjects; and (b) by country, listing their statements or proposals submitted by subject.

183. LOSIS has been and is being developed as a dynamic tool. Its future direction, expansion and emphasis will largely be determined by the nature of requests made by States and the research needs of the Office. The co-operation of Member States is of particular importance in obtaining current and new legislation and other information relevant to State practice in matters pertaining to the Convention.

VI. ANALYTICAL STUDIES

184. Analytical studies that are intended to trace the legislative history of the provisions of the Convention are being prepared as part of the established programme of the Office in order to illustrate and analyse, in the most accurate and objective manner, the negotiating process that resulted in the text of the Convention.

185. These provisions relate to topics that need to be evaluated and assessed with regard to the positive development of the law of the sea: the series commenced with a publication dealing with an important subject in relation to the preservation of the marine environment, namely dumping. 61/

186. The studies are designed to set out the history of the provisions, not only through an examination of the documents of the Third United Nations Conference on the Law of the Sea, but by utilizing, when appropriate, all relevant legal instruments such as the work of the International Law Commission, the First and Second United Nations Conferences on the Law of the Sea, provisions of the 1958 Geneva Conventions and the work of the Sea-Bed Committee. To complement the legal background, other multilateral instruments are referred to whenever relevant.

187. Two new studies have been completed by the Office: the first, which concerns the legislative history of Part X of the Convention, i.e. the right of access of land-locked States to and from the sea and freedom of transit, has been published. 62/ The second, which deals with the régime of islands (art. 121), has been submitted for publication. The anticipated publication programme has been affected by the financial constraints of the Organization and consequent measures that had to be taken. These studies continue to be in demand from Member States, United Nations organizations and other users. Requests for their publication in languages other than the two working languages have been made by the States.

188. Six other studies dealing with archipelagic States (arts. 46 to 54); some aspects of the exclusive economic zone (art. 56, Rights, jurisdiction and duties of the coastal States in the exclusive economic zone, and art. 58, Rights and duties of other States in the exclusive economic zone); definition of the continental shelf (art. 76); navigation on the high seas (Part VII, sect. 1);

régime of marine scientific research (Part XIII, sect. 3); and artificial islands, installations and structures are in varying stages of preparation and will be issued as they become available.

189. The baseline provisions of the Convention are highly technical in nature and their application in different geographical and other circumstances are not always easily understood. There is a need to provide a simple explanation of the technical provisions. Accordingly, the Office is in the process of preparing a study as an aid to the practical application of the baseline provisions in the Convention specifically for the benefit of practioners who are charged with the responsibility of implementing those provisions. 63/ In the course of preparing this study, the Office has consulted on the technical aspects an informal group of experts in geography, hydrography and cartography, which was drawn from all regions. The observations and comments of the members of the group were most valuable and helpful. The group also recognised the usefulness of such a study to personnel in Member States who are implementing these provisions of the Convention. The study will be published early in 1988. The Office is grateful to the Government of Japan for providing some of the funds required for th's project.

VII. STATE PRACTICE (NATIONAL LEGISLATION AND TREATIES)

190. The Office continues to gather and process material reflecting State practice. The Convention continues to exert an important influence on the development of national policy with regard to law of the sea matters. In order to assist States in their efforts to implemen the Convention and to promote a uniform and consistent application of the complex set of norms embodied in it, the Office has issued a publication entitled "Current Developments in State Practice". 64/ This publication contains all available national maritime legislation enacted in the four years following the adoption of the Convention in 1982 as well as the texts of treaties relating to maritime matters concluded during this period.

191. The preparation of studies inco.porating comprehensive surveys of national legislation relating to subjects such as the continental shelf, the territorial sea, the contiguous zone and the conduct of marine scientific research in areas under coastal States' jurisdiction are in the process of being completed. Some difficulties have been encountered in obtaining the necessary legislation from certain States. The completion of these studies would be assisted if the States concerned could make available the relevant legislation. The Secretariat would like to renew its requests to them.

192. The compilation of 74 bilateral agreements dealing with the delimitation of maritime boundaries concluded after 1970 will be finalized before the end of 1987. This publication reflects a very important aspect of the practice of States in relation to the delimitation of maritime boundaries between States with adjacent or opposite coasts in a period characterised by the extension of national jurisdiction. A collection of similar agreements concluded before 1970 will follow.

VIII. LAW OF THE SEA REFERENCE COLLECTION LIBRARY AND PUBLICATION OF SELECTED BIBLIOGRAPHIES

193. The Reference Collection Library of the Office for Ocean Affairs and the Law of the Sea continues to expand and is becoming one of the most complete reference libraries through a continuing collection of periodicals, legislative series, loose-leaf services, treaties and newly published books dealing with all aspects of the Law of the Sea Convention. The Reference Collection Library is designed to serve the needs of a multidisciplinary group of users such as members of accredited delegations and missions to the United Nations, secretariat staff and persons from academic institutions who are interested in the developing field of marine affairs. This specialized library continues to publish annually the "Law of the Sea: A Select Bibliography". The second bibliography in this series was published in early 1987 under the symbol LOS/LIB/2. 65/ The third in this series will be submitted soon for publication under the symbol LOS/LIB/3. As in previous years the Reference Library works in close collaboration with the Dag Hammarskjöld Library and makes every attempt to obtain the most up-to-date information on current publications relating to the law of the sea and other activities in marine affairs.

IX. THE LAW OF THE SEA BULLETIN

194. Four issues of the Law of the Sea Bulletin have been published during the period under review (Nos. 8, 9, 10 and Special Issue No. 1). The Law of the Sea Bulletin continues to be a useful tool for States and intergovernmental bodies to be informed in a timely manner of current developments relating to the law of the sea and various activities in the field of marine affairs. Many States use the Bulletin to give publicity to their new legislation or to declarations relating to the law of the sea.

195. The Bulletin is entirely edited and distributed by the Office and is in considerable demand from a large number of Member States (including direct requests from government departments), international and non-governmental organizations, universities and scholars. (The mailing list, besides containing all the Member States of the Organization, includes about 400 names of individuals or institutions.) In order to improve the publication, a questionnaire soliciting reactions from readers and seeking suggestions on how to improve the Bulletin was prepared and incorporated in issue No. 9. A large number of very positive responses have been received.

X. FELLOWSHIP PROGRAMME

196. In carrying out its activities concerning the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea, the Office secured the participation of the fellow to whom the first award was made, Mr. Bala Bahadur Kunwar, at the educational institution with which he was associated, the University of Virginia. At its Center for Ocean Law and Policy, Mr. Kunwar carried out further research and studies on the subject of the rights of land-locked States under the

Convention, in particular the right of access to and from the sea and its resources. The subject was of particular relevance to the candidate, who is a national of a land-locked country, Nepal. He audited courses at the University of Virginia under the supervision of Professor John Norton Moore. Having completed his nine-month period with the University, he served an internship with the Office for Ocean Affairs and the Law of the Sea from February to May 1987. During the internship he was provided the opportunity to carry out further research on this subject in the context of the developments of the Third United Nations Conference on the Law of the Sea. As required by the terms of the fellowship, he has prepared a study, which, after review by the Office, will be incorporated in one of its publications.

197. The arrangements for the second award of the fellowship in 1987 are proceeding. Application and nomination forms have been circulated globally through the United Nations information centres and offices of UNDP. The Advisory Panel for the second award, consisting of eminent persons in international relations, the law of the sea and related matters, comprises: T. T. B. Koh (Chairman), Elliot Richardson, Paul Bamela Engo, Felipe Paolillo, Tom Eric Vraalsen, Igor Ivanovich Yakovlev, Carl-August Fleischhauer and G. E. Chitty (Secretary to the Panel). The Panel is scheduled to meet on 20 November 1987 and based on its recommendations the Special Representative of the Secretary-General for the Law of the Sea will make the second award, which will be implemented in 1988.

198. The period of specialized research/study under the fellowship programme will be made possible at one of the participating institutions, which are: the Center for Ocean Law and Policy, University of Virginia, United States; Dalhousie Law School, Halifax, Canada; the Graduate Institute of International Studies, Geneva; the Netherlands Institute for the Law of the Sea, University of Utrecht, the Netherlands; the Research Centre for International Law, University of Cambridge, United Kingdom; the School of Law, University of Georgia, United States; the School of Law, University of Miami, United States; the William S. Richardson School of Law, University of Hawaii, United States; and the Woods Hole Oceanographic Institution, Massachusetts, United States.

199. Following earlier practice, after the conclusion of the research/study period with the educational institution, the fellow will serve a period of internship with the Office for Ocean Affairs and the Law of the Sea in New York.

200. Depending upon the income available from the Hamilton Shirley Amerasinghe Fellowship Trust Fund, which at present is adequate for at least one fellowship, and based upon the costs involved for travel and subsistence while at the university and at United Nations Headquarters, there may be the possibility of awarding an additional fellowship.

201. The investment of the fellowship fund has not yielded substantial returns, owing to prevailing interest rates and return on investments. Considering the growing interest in the fellowship and the prestigious educational institutions offering facilities free of charge for selected fellows, further contributions to the Fund would be welcome so as to expand the programme to accommodate more than one candidate each year.

Notes

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

2/ The first report was submitted to the thirty-ninth session (A/39/647 and Corr.1 and Add.1), the second was submitted to the fortieth session (A/40/925), and the third annual report was submitted to the forty-first session (A/41/742).

3/ Cape Verde, Cuba, Democratic Yemen, Egypt, Guinea-Bissau, Iceland, Philippines, Tunisia, United Republic of Tanzania and Yugoslavia.

4/ Cape Verde, Cuba, Egypt, Guinea-Bissau and United Republic of Tanzania.

5/ Cape Verde, Iceland and Tunisia.

6/ The most recent State to extend its territorial sea is the United Kingdom, which has enacted the Territorial Sea Act (1987). Those States with a territorial sea of 12 miles are as follows: Algeria, Antigua and Barbuda, Bangladesh, Barbados, Brunei Darussalam, Bulgaria, Burma, Canada, Cape Verde, Chile, China, Colombia, Comoros, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Djibouti, Dominica, Egypt, Equatorial Guinea, Ethiopia, Fiji, France, Gabon, Gambia, German Democratic Republic, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Jamaica, Japan, Kenya, Kiribati, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Malta, Mauritius, Mexico, Monaco, Morocco, Mozambique, Nauru, Netherlands, New Zealand, Niue, Oman, Pakistan, Papua New Guinea, Poland, Portugal, Republic of Korea, Romania, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Solomon Islands, South Africa, Spain, Sri Lanka, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sudan, Suriname, Sweden, Thailand, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Ukrainian SSR, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Union of Soviet Socialist Republics, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia and Zaire.

7/ Antigua and Barbuda, Burma, Chile, Democratic Kampuchea, Democratic Yemen, Dominica, Dominican Republic, Gabon, Ghana, India, Madagascar, Malta, Morocco, Pakistan, Saint Lucia, Senegal, Sri Lanka, Vanuatu and Viet Nam.

8/ It is estimated that there are 36 more potential boundaries in the Mediterranean Sea to be settled. See also Blake, World Maritime Boundary Delimitation.

9/ For instance, the International Geographic Union has created a Study Group on Marine Geography with emphasis on management patterns in both coastal and offshore areas. Its first meeting was held in July 1987 at the Institute of Science and Technology, University of Wales (United Kingdom).

Notes (continued)

10/ See A/CN.10/90, 92, 101 and 102. It should be noted that the United States does not participate in the consultations on this issue in the Commission.

11/ At present two such agreements are known to exist: between the United States and the Soviet Union (Prevention of Incidents On and Over the High Seas, 1972) and between the United Kingdom and the Soviet Union (Agreement concerning the Prevention of Incidents at Sea beyond the Territorial Sea, 1986).

12/ Parties to the London Dumping Convention (LDC) have begun to look at the relationship between the Convention and the Convention on the Law of the Sea. ICAO has also undertaken a similar exercise to that of IMO. However, the work is not expected to be completed before mid-1989, in view of its Legal Committee's priority work on the draft instrument for the suppression of unlawful acts of violence at airports serving international civil aviation.

13/ Copies are available from IMO and the Office for Ocean Affairs and the Law of the Sea.

14/ General Assembly resolution 40/61; IMO Assembly resolution A/584(14).

15/ See IMO document MSC/Circ.443, 26 September 1986.

16/ The 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft; the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft; and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. A new draft Convention for the Suppression of Unlawful Acts at Airports serving International Civil Aviation is now being elaborated by ICAO.

17/ Acts of terrorism would seldom fall under the definition of piracy provided for in article 101 of the Convention on the Law of the Sea.

18/ IMO document C 57/D. See also document A/42/519.

19/ The Statement on Terrorism issued at the Venice Economic Summit on 9 June 1987, reaffirmed "the principle established by relevant international organizations of trying or extraditing according to national laws and international conventions those who have perpetrated acts of terrorism". The Summit welcomed the improvements in airport and maritime security and encouraged ICAO and IMO work in this regard.

20/ The 1958 Geneva Convention on the Continental Shelf had required total removal. Article 60 was the only provision to be amended when the draft Convention was submitted for adoption in April 1982. It was understood at the time that this modification of the previous obligation for total removal would be followed expeditiously by the adoption of binding international standards.

21/ See MSC report MSC/54/23. Draft guidelines are contained in NAV 33/15, annex VI.

Notes (continued)

22/ Ultimate disposal of scrapped rig structures will be on the agenda of the tenth Consultative Meeting of LDC, in 1988.

23/ When not engaged in a drilling operation, they are considered to be vessels. See draft IMC Assembly resolution on measures to prevent infringement of safety zones around offshore installations or structures (NAV 33/15, annex 7).

24/ E/CN.7/1987/2 and DND/DCIT/WP.12. For comments from Governments, see E/CN.7/1987/18.

25/ IMO has compiled guidelines on the prevention of drug smuggling on ships engaged in international traffic. ICAO is presently studying measures to ensure that commercial carriers are not used for this purpose and is developing a system of sanctions.

26/ See interim report of the Open-Ended Intergovernmental Expert Group Meeting on the Preparation of a Draft Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (DND/DCIT/WP.12).

27/ See also A/CONF.133/4.

28/ For example, the UNEP report (United Nations publication, Sales No. E.87.III.D.1). See also documentation on the environmental perspective to the year 2000 and beyond (UNEP/GC.14/16 and A/42/427).

29/ The Montreal Protocol on Substances that Deplete the Ozone Layer was adopted on 16 September 1987. A WMO world conference (late 1989) will assess scientific developments on greenhouse gases and climatic change.

30/ The OECD Environmental Committee has established a new project to improve environmental management and monitoring capabilities in developing countries.

31/ An OECD seminar (1987), as part of its environmental impact assessment activities, was held on environmental assessment and development assistance. The CMEA Board for Environmental Protection is also concentrating on the environmental impact assessment of major development programmes, as well as on waste technology for treatment and disposal.

32/ The Committee of International Development Institutions on the Environment consisting of the regional development banks, the Commission for the European Communities, IFAD, the Organization of American States, UNDP, the World Bank and UNEP, is intended to be the forum for ensuring integration of environmental considerations with the policies and operational activities not only of the multilateral agencies themselves but also of bilateral aid agencies.

33/ See IMO document LDC/SG.10/11.

Notes (continued)

34/ See GESAMP report No. 30. The experience of UNEP and the International Council for Exploration of the Sea (ICES) is recounted in IMO documents LDC/SG.10/2/4 and 5. The International Conference on Environmental Protection of the North Sea held in March 1987 also examined this concept and other aspects of achieving an integrated approach to marine environmental management.

35/ The concept is used in the 1985 Montreal guidelines on marine pollution from land-based sources.

36/ An international symposium on reception facilities held by IMO in May 1987 provided much useful information on Annex II for administrators, the shipping industry and port authorities.

37/ Eighth meeting, February 1987.

38/ Most recently, IMO Sales Document 630 87.07.E (Manual on Chemical Pollution Section 1 - Problem Assessment and Response Arrangements).

39/ Common pollution reporting systems have been adopted by the Bonn Agreement, the Copenhagen Agreement and the Helsinki Commission.

40/ IOC's relations with regional organizations, e.g. ICES (North Atlantic), the International Commission for the Scientific Exploration of the Mediterranean Sea (ICSEM) (Mediterranean), CPPS (South-east Pacific), have now been supplemented by co-operation with the two Co-ordinating Committees for Offshore Prospecting for East Asia and South Pacific.

41/ Acoustic Doppler current profiling; acoustic tomography, and other innovations in hydrographic and hydrochemical measurements; satellite altimetry, satellite scatterometry, passive/micro-wave radiometry and ocean spectrometry. A report is to be prepared by IOC on new technologies for ocean observation.

42/ The MARPOL and London Dumping Conventions are based upon scientific and technical considerations, so that IMO/IOC co-operation on marine science questions is important. Recent consultations have produced a greatly strengthened co-operation and IMO will now join UNEP in co-sponsoring GIPME/Group of Experts on Effects of Pollutants.

43/ See the report of the Third Session of the IOC Group of Experts on Effects of Pollutants, September 1986, in the IOC series, Reports of Meetings of Experts and Equivalent Bodies.

44/ See "Opportunities and Problems in Satellite Measurement of the Sea", UNESCO Technical Paper in Marine Sciences No. 46.

45/ Major progress in the establishment of a global maritime search and rescue plan may be made only with the help of satellite communications. The provisions of the Global Maritime Distress and Safety System incorporate the

Notes (continued)

International Maritime Satellite System which now gives priority to distress communications and those with synthetic aperture reades forces and operations. Distress communications are provided free of charge; under discussion are favourable terms for meteorological and navigational notifications.

46/ Article 250 requires that consent be obtained through official channels.

47/ IOC is not the only organization to be called on to facilitate the conduct of co-operative projects undertaken in national jurisdiction; increasingly organizations such as CCOP/SOPAC are becoming more directly involved in the consent process.

48/ See article 2, paragraph 1 (j) of IOC Assembly resolution XIV-19. The unamended provision had read: "promote freedom of scientific investigation of the oceans for the benefit of all mankind, taking into account all interests and rights of coastal countries concerning scientific research in the zones under their jurisdiction".

49/ See FAO documents COFI/87/2 and 3; see also COFI/87/INF.4, "Review of the State of World Fishery Resources".

50/ See the report of the seventeenth session of the Committee on Fisheries (CL 91/7).

51/ See "Review of UNDP Support for Fisheries Development", April 1986.

52/ See the report of tenth session of CECAF, December 1986.

53/ The procedure is used by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), IWC, the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Northwest Atlantic Fisheries Organization (NAFO).

54/ See FAO documents FL/COPACE/87/19(1987); Fisheries Law Advisory Programme circulars No. 6 (1986) and No. 8 (1987).

55/ FAO Fisheries Technical Paper (286), "The Patagonian Fishery Resources and the Offshore Fisheries in the South-West Atlantic" by J. Csirke, 1987. The study covers the area lying between 38° S to the north and 50° W to the east. See also A/AC.109/920, which presents the latest developments on Falkland Island (Malvinas) fisheries and related problems, as reported by the Argentine and United Kingdom Governments. The United Kingdom "Declaration on South West Atlantic Fisheries" of 29 October 1986 is contained in A/41/777. (See also A/41/636, A/41/669-S/18378 and A/41/708-S/18399.)

56/ The important hake fishery is mostly coastal and fished by Argentina and Uruguay, who are actively involved in joint research programmes and management negotiations, as contemplated under the 1973 bilateral treaty.

Notes (continued)

57/ The new Eastern Pacific Tuna Fishing Agreement will establish a regional licensing régime, when in force.

58/ Symposium on the Exploitation and Management of Marine Fishery Resources in South-East Asia, April 1987, Darwin, Australia.

59/ Initiated in 1984, SEAPOL is administered by the Institute of Asian Studies at Chulalongkorn University, Bangkok, in co-operation with Dalhousie University, Canada.

60/ Press release SG/SM/3970.

61/ See United Nations publication, Sales No. E.85.V.12.

62/ See United Nations publication, Sales No. E.87.V.5.

63/ It should be noted that a regional training course on boundary-making baselines and other related matters was held in Singapore in 1987 under SEAPOL auspices, and that a workshop dealing with the same issues was also held in 1987 under the auspices of OECS.

64/ See United Nations publication, Sales No. E.87.V.3.

65/ See United Nations publication, Sales No. E.87.V.2.
